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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

X

UNITED STATES OF AMERICA, : 09cr395

■

-against- : United States Courthouse  
Brooklyn, New York

ANTHONY PRADDY, : BROOKLYN, NEW YORK

Defendant. : April 25, 2011  
Defendant. : 10:00 o'clock

x

TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE FREDERIC BLOCK  
UNITED STATES DISTRICT JUDGE, and a jury

## APPEARANCES:

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Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

1 (open court-case called-appearances noted.)

2 THE COURT: Good morning everybody. I hope you had  
3 a restful weekend and that you had a very good holiday. We  
4 are going to complete the trial this week, I suspect. We have  
5 a full day scheduled today so let's continue.

6 Mr. Goldsmith, you have your next witness?

7 MR. GOLDSMITH: First we have a stipulation.

8 THE COURT: This is another stipulation. I told you  
9 when the parties stipulate you can accept what they stipulate  
10 to as established fact.

11 Go ahead.

12 MR. GOLDSMITH: It is hereby stipulated by and  
13 between --

14 THE COURT: Is there an exhibit number?

15 MR. GOLDSMITH: 402 A.

16 THE COURT: 402 A?

17 MR. GOLDSMITH: Yes.

18 It is hereby stipulated and agreed by and between  
19 the United States of America, by Assistant United States  
20 Attorneys Seth D. DuCharme and Andrew Goldsmith, and the  
21 defendant Anthony Praddy, also known as Birdman, by his  
22 attorney Mitchell J. Dinnerstein, Esq. that:

23 1. The substance in Government Exhibit 203 is  
24 marijuana.

25 2. The marijuana contained in Government Exhibit 203

Astrakhan - direct - Goldsmith

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1 has an aggregate weight of 7.372 ounces.

2           3. The stipulation is admissible in evidence.

3           The government offers 402 A in evidence.

4           THE COURT: So that is agreed to.

5           (So marked.)

6           MR. GOLDSMITH: The government calls Vadim  
7 Astrakhan.

8           THE COURT: Because there is a stipulation there is  
9 no need to call somebody who will testify as to the weight of  
10 the marijuana. Nobody is questioning the accuracy of the  
11 report. We don't have to waste time by having another witness  
12 when everybody agrees to that.

13           All right.

14 VADIM ASTRAKHAN,

15           called as a witness, having been first duly sworn,  
16           was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. GOLDSMITH:

19 Q       What do you do for a living?

20 A       I am a senior forensic chemist.

21 Q       Where?

22 A       At the DEA, Drug Enforcement Administration.

23 Q       How long have you had that position?

24 A       Nine years.

25 Q       What are your duties?

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1 A I ANALYZE submitted evidence for the presence of  
2 controlled and uncontrolled substances.

3 Q Approximately how many times have you analyzed submitted  
4 substances?

5 A Over 3000.

6 Q How many times have you analyzed marijuana or suspected  
7 marijuana?

8 A Seven, 800 times, give or take.

9 Q Have you ever tested alleged marijuana that you concluded  
10 was in fact not marijuana?

11 A Yes, I have.

12 Q Could you describe your education for us, please,  
13 briefly.

14 A I have a bachelor of science in chemistry from University  
15 of Michigan and a master of science and forensic science in  
16 John Jay College of Criminal Justice.

17 THE COURT: Forensic science, when you say forensic  
18 science, specifically you mean what in terms of telling the  
19 jury what forensic science means?

20 THE WITNESS: A forensic chemist specifically is a  
21 person that applies chemistry to the matters of law.

22 THE COURT: To matters of law?

23 THE WITNESS: Yes.

24 THE COURT: I know that but it's good for the jury  
25 to hear that.

Astrakhan - direct - Goldsmith

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1 Go ahead.

2 Q Have you previously testified in Federal Court as an  
3 expert in forensic chemistry?

4 A Yes, I have.

5 MR. GOLDSMITH: The government offers Mr. Vadim  
6 Astrakhan as an expert in forensic chemistry.

7 MR. DINNERSTEIN: No objection.

8 THE COURT: Here we have an expert who is going to  
9 be testifying. I will explain how you assess the testimony of  
10 an expert in my closing instructions.

11 Basically the credibility of all witnesses are to be  
12 assessed the same way, listen to their testimony, you make the  
13 decision as to their credibility or believability.

14 Go ahead.

15 BY MR. GOLDSMITH:

16 Q Sir, I have just handed you Government Exhibit 207, 208,  
17 209, 210, 211, 212 and 213.

18 What are those?

19 A They are the exhibits that I have analyzed.

20 THE COURT: The marijuana, right?

21 THE WITNESS: Yes.

22 THE COURT: All right.

23 THE WITNESS: To put it simply.

24 MR. GOLDSMITH: The government offers Government  
25 Exhibits 207 through 213.

Astrakhan - direct - Goldsmith

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1 MR. DINNERSTEIN: No objection.

2 THE COURT: I think we already have that in evidence  
3 according to my list.

4 MR. GOLDSMITH: We did offer it with Agent Foy.  
5 You're right.

6 THE COURT: That was done on 5/8.

7 Q Sir, did you prepare reports concerning your analysis of  
8 that marijuana that we were just looking at?

9 A I did.

10 Q I hand you Government's Exhibits 421 through 427. What  
11 are those?

12 A Those are my reports.

13 Q About that marijuana?

14 A Correct.

15 MR. GOLDSMITH: The government offers Exhibit 421  
16 through 427.

17 THE COURT: Any objection?

18 MR. DINNERSTEIN: No objection.

19 THE COURT: In evidence.

20 (So marked.)

21 Q What tests did you perform on that marijuana, sir?

22 A In all of these exhibits I have used three tests, one a  
23 microscopy test; one a color test, specifically Duquenois  
24 Levin, and a GC/MS test, which stands for gas  
25 chromatography/mass spectrometry.

Astrakhan - cross - Dinnerstein

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1 Q Are those accurate and accepted methods of identifying  
2 marijuana?

3 A Yes, they are.

4 Q What was the results of those tests?

5 A All of these results showed the presence of marijuana in  
6 all of these exhibits.

7 Q Did you also determine the weight of the marijuana?

8 A Yes, I did.

9 Q Where is that recorded?

10 A On those reports, where it says "net weight."

11 Q The reports that I just handed up to you?

12 A Yes.

13 Q Could you just please, using those reports, tell the jury  
14 what the weights were of the exhibits the marijuana that you  
15 examined?

16 A Government Exhibit 421, net weight, 25.8 grams. 422,  
17 27.8 grams. 423, 46.5 grams. 424, 24.1 grams. 425,  
18 26.4 grams; Exhibit 426, 51.3 grams; Exhibit 427, 13.2 grams.

19 MR. GOLDSMITH: Nothing further, your Honor.

20 THE COURT: Any questions, Mr. Dinnerstein?

21 MR. DINNERSTEIN: Yes, your Honor. Just a few.

22 CROSS-EXAMINATION

23 BY MR. DINNERSTEIN:

24 Q Mr. Astrakhan, good morning.

25 A Good morning.

Astrakhan - cross - Dinnerstein

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1 Q How many grams are there in an ounce?

2 A Twenty-eight -- approximately 28.

3 Q Twenty-eight?

4 A Yes.

5 Q Now, you were talking about grams -- sometime in terms of  
6 marijuana do they talk about ounces?

7 A Not in forensic science. We keep everything metric.

8 Q Everything is a metric system, right?

9 A Yes.

10 Q So that is kind of what lay people sometimes call ounces  
11 or half ounces, or things like that; is that correct?

12 A Yes.

13 Q Now, do you have any idea what the street value of  
14 about -- you said one was 25.8 grams?

15 A Sorry, no.

16 Q Do you have any idea the street value is?

17 A No.

18 Q Is 25 or 26 grams, is that a lot marijuana or is it a  
19 small amount?

20 A Put it this way, I've seen more and I've seen less.

21 Q But sometimes --

22 A This is pretty typical of marijuana submission.  
23 Sometimes I see literally kilos of marijuana.

24 Q Kilos obviously are --

25 A It's more.

Astrakhan - cross - Dinnerstein

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1 Q Are a lot more than that?

2 A Sometimes I see only a couple of grams. We get all kinds  
3 of submissions.

4 Q In one kilogram how many grams are there?

5 A A thousand.

6 Q A thousand --

7 A Grams.

8 Q A thousand grams in one kilogram?

9 A Yes.

10 Q We're talking here about anywhere between 13 and  
11 50 grams; is that correct, 51 grams?

12 A Yes. In ounces, most of these are around one ounce, one  
13 of them is like half an ounce, another one is two ounces.

14 Q Actually it's a little bit less than one ounce or  
15 two ounces; isn't that correct?

16 A A little bit. Some of them were like 27.8. That is  
17 practically an ounce.

18 Q That is pretty close to an ounce?

19 A 46.5 is almost two ounces.

20 Q Actually two ounces would be 56 grams, right?

21 A That's correct.

22 Q Forty-six would be about ten grams below two ounces; is  
23 that correct?

24 A Yes.

25 MR. DINNERSTEIN: Thank you very much, sir. Nothing

McQuilkin - direct - DuCharme

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1 further.

2 THE COURT: Anything further, Mr. Goldsmith?

3 MR. GOLDSMITH: No, your Honor.

4 THE COURT: Thank you. You may step down.

5 THE WITNESS: Thank you.

6 THE COURT: Next witness.

7 (Witness excused.)

8 MR. DuCHARME: The government calls Hayden  
9 McQuilkin.

10 HAYDEN McQUILKIN,

11 called as a witness, having been first duly sworn,  
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. DuCHARME:

15 Q Mr. McQuilkin, do you have any nicknames or other names?

16 A Yes, sir.

17 Q What are your nicknames?

18 A Rondu, DuMan.

19 Q Rondu and DuMan?

20 A Du.

21 Q How old are you, sir?

22 A Forty-seven.

23 Q Where were you born?

24 A Trinidad.

25 Q When did you come to the United States, Mr. McQuilkin?

McQuilkin - direct - DuCharme

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1 A 1973.

2 Q How old were you when you came to the United States in  
3 1973?

4 A Nine going on ten.

5 Q Did you come to this country illegally, sir?

6 A Yes, sir.

7 Q Where did you grow up after you came to the United  
8 States, Mr. McQuilkin?

9 A Flatbush.

10 Q And what borough is that in?

11 A In Brooklyn.

12 Q Did you go to school?

13 A Yes, sir.

14 Q How far did you go in school, Mr. McQuilkin?

15 A I have an associate's degree.

16 Q An associate's degree?

17 A Yes, sir.

18 MR. DINNERSTEIN: Could you ask the witness to keep  
19 his voice up.

20 THE COURT: I guess we're going to have to move that  
21 machine a little bit closer. That should could it.

22 Keep your voice up.

23 THE WITNESS: Okay.

24 Q Mr. McQuilkin, do you drink alcohol?

25 A Yes, sir.

McQuilkin - direct - DuCharme

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1 Q How often?

2 A Like three times a week.

3 Q Three times a week?

4 THE COURT: You're dropping your voice.

5 A Like three times a week.

6 THE COURT: Move up a little bit. You don't have to  
7 bend forward all the time. You're close enough now. Say  
8 "about three times a week" again.

9 A About three times a week.

10 THE COURT: Don't move forward.

11 THE WITNESS: About three times a week.

12 THE COURT: Can you hear that, Mr. Dinnerstein?

13 MR. DINNERSTEIN: I can, Judge.

14 THE COURT: Thank you.

15 Q Now, Mr. McQuilkin, also, if you need to you can move the  
16 microphone around, but I think we have got you in a good spot  
17 now.

18 Have you ever used illegal drugs, sir?

19 A Yes, sir.

20 Q What kinds of illegal drugs have you used?

21 A Marijuana.

22 Q When was the last time you used marijuana, sir?

23 A '06.

24 Q 2006?

25 A Yes, sir.

McQuilkin - direct - DuCharme

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1 Q Now, are you cooperating with the Federal government in  
2 connection with this case, Mr. McQuilkin?

3 A Yes, sir.

4 Q And approximately when did you first meet with federal  
5 investigators?

6 A 2006, August.

7 Q And why did you meet with federal investigators in 2006?

8 A They asked me. They wanted to speak to me if I know  
9 anything about drugs and crimes, and I told them yes.

10 Q Did you hope to gain anything by cooperating with the  
11 government?

12 A Yes, sir.

13 Q What did you hope to gain?

14 A My freedom.

15 Q Had you been arrested?

16 A Yes, sir.

17 Q On what charge?

18 A Re-entry.

19 Q Now, did you agree to provide information to the  
20 government?

21 A Yes, sir.

22 Q And generally what types of information did you provide  
23 to the government?

24 A About drugs and guns and murder.

25 Q Did you provide information about crimes that you

McQuilkin - direct - DuCharme

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1 committed?

2 A Yes, sir.

3 Q Have you plead guilty to federal crimes, Mr. McQuilkin?

4 A Yes, sir.

5 Q Approximately when did you plead guilty to federal  
6 crimes?

7 A June 2007, sir.

8 Q What federal crimes have you plead guilty to?

9 A Steering and illegal re-entry to --

10 THE COURT: What was the first one?

11 THE WITNESS: Steering.

12 THE COURT: Steering?

13 THE WITNESS: Yes.

14 THE COURT: What do you mean by steering?

15 THE WITNESS: When you -- somebody is selling drugs  
16 and somebody want to buy drugs and you take the person that  
17 want to buy drugs to the person that is selling it and they  
18 give you a profit out of it.

19 Q Have you been sentenced yet for the federal crimes you  
20 pled guilty to?

21 A No, sir.

22 Q Are you facing jail time?

23 A Yes, sir.

24 Q How much?

25 A Ten years to life.

McQuilkin - direct - DuCharme

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1 Q Now, an agreement with the government in connection with  
2 your guilty plea, Mr. McQuilkin?

3 A Yes, sir.

4 Q Is the agreement you entered into with the government in  
5 writing?

6 A Yes, sir.

7 MR. DuCHARME: If I may approach, your Honor?

8 THE COURT: You may.

9 Q Mr. McQuilkin, I'm showing you what has been marked for  
10 identification as Government Exhibit 448. I ask you to take a  
11 look at that (Handing.)

12 Do you recognize that, sir?

13 A Yes, sir.

14 Q What is that?

15 A A cooperation agreement.

16 Q If you turn to the last page, do you see your signature  
17 there?

18 A Yes, sir.

19 MR. DuCHARME: Your Honor, at this time the  
20 government offers Exhibit 448 into evidence.

21 THE COURT: Any objection, Mr. Dinnerstein?

22 MR. DINNERSTEIN: No objection.

23 THE COURT: In evidence.

24 (So marked.)

25 Q Mr. McQuilkin, what specifically are the crimes you pled

McQuilkin - direct - DuCharme

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1 guilty to?

2 A Conspiracy crack cocaine and illegal re-entry to America.

3 Q The crack conspiracy charge, is the steering that you  
4 described to the court earlier?

5 A Yes, sir.

6 Q And under the cooperation agreement that you have with  
7 the government, Mr. McQuilkin, what is your understanding of  
8 what your obligations are?

9 A Always tell the truth; be on time.

10 Q Do you have any other obligations?

11 A No.

12 Q When you say "be on time," be on time for what?

13 A Be on time for the FBI agents if they want to meet with  
14 me, always be there and cooperate with -- do what they ask of  
15 me.

16 Q Mr. McQuilkin, what is your understanding of what the  
17 government has agreed to do for you if you meet the terms of  
18 your cooperation agreement?

19 A They will send a letter to the judge with my criminal  
20 record and also the recommendation from them and it's up to  
21 the judge to make the decision if I'm guilty -- I mean if you  
22 want to sentence me or if do you not want to sentence me.

23 THE COURT: When you say -- you're mumbling.

24 THE WITNESS: I say it's up to -- after the U.S.  
25 Attorney send the letter, he sends a letter with my criminal

McQuilkin - direct - DuCharme

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1 record and a letter of recommendation to the judge. It's up  
2 to the judge to decide if I go to jail or if I go free.

3 Q What is your understanding, Mr. McQuilkin, of what that  
4 letter would allow the judge to do if the government were to  
5 provide such a letter for you?

6 A It's up to the judge to sentence me to whatever time. He  
7 could sentence me to ten years, he could sentence me to no  
8 time.

9 Q Without that letter what is the minimum amount of time  
10 you're facing?

11 A Ten years.

12 Q What about with the letter?

13 A It could be anything.

14 Q Has anybody promised you what your sentence will be?

15 A No, sir.

16 Q Do you know what your sentence will be?

17 A No, sir.

18 Q What do you hope it will be?

19 A That I go home free.

20 Q Now, based on your understanding of the agreement,  
21 assuming that you comply with your obligations, is there  
22 anything else that you would expect the government to do for  
23 you?

24 A Yes. Write a letter to Immigration for me.

25 Q What do you expect that that letter would do?

McQuilkin - direct - DuCharme

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1 A It would be up to Immigration just like the judge to make  
2 the decision.

3 Q With respect to what, what are you hoping to get from  
4 Immigration?

5 A That I be allowed to stay in the country.

6 Q Has anyone promised you that you'll be allowed to stay in  
7 this country?

8 A No, sir.

9 Q What is your understanding of who makes that final  
10 determination?

11 A Immigration.

12 Q Mr. McQuilkin, what is your understanding of what happens  
13 to you if you do not provide complete and truthful information  
14 pursuant to that agreement?

15 A I would be going to jail.

16 Q Will you be able to take your guilty plea back?

17 A No, sir.

18 Q Now, since you entered into that agreement with the  
19 government in June of 2007, sir, have you attended meetings  
20 with the government?

21 A Yes, sir.

22 Q Approximately how many?

23 A Hundreds of times.

24 MR. DINNERSTEIN: I didn't hear the answer.

25 THE WITNESS: Hundreds of times.

McQuilkin - direct - DuCharme

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1 Q Generally, what types of things have you done to assist  
2 the government since you entered into that agreement?

3 A Go and buy drugs.

4 Q Go and buy drugs?

5 A Yes, sir.

6 Q Has the FBI ever given you any money during the time that  
7 you have been working with them?

8 A Yes, sir.

9 Q About how much money has the FBI given you over the  
10 years?

11 A Over 50,000.

12 Q And for what reason has the FBI given you \$50,000 over  
13 the years?

14 A Well, they give it to me to pay my rent and -- first they  
15 wasn't giving me, they would give me like to pay my phone bill  
16 and for carfare and then I went and did a trial for the people  
17 near where I have live, so they had to move me and my family.

18 Q Over what years has the FBI paid you that money?

19 A From 2008, October, they started paying my rent.

20 Q And other than working with the FBI, Mr. McQuilkin,  
21 during that time frame, have you had any other sources of  
22 income?

23 A Yes, sir.

24 Q What have your other sources of income been?

25 A I was working construction for awhile and doing moving

McQuilkin - direct - DuCharme

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1 jobs.

2 Q Have you had any steady employment during that time?

3 A No, sir.

4 Q Why not?

5 A Because I would always be obligated to the FBI.

6 Q Has the FBI provided you any assistance with respect to  
7 your work status?

8 A Yes, sir. I didn't receive that till March of 2010.

9 Q What did you receive?

10 A Work permit, I could work till December of 2010.

11 Q How many different cases, Mr. McQuilkin, have you worked  
12 on the FBI with?

13 A About five.

14 Q And in connection with this case, Mr. McQuilkin, did you  
15 attend meetings with the government to prepare to testify here  
16 today?

17 A Yes, sir.

18 Q About how many times did you meet with the government to  
19 prepare for this case?

20 A About 12 times.

21 Q Now, Mr. McQuilkin, are you familiar with the Raleigh  
22 Place/Church Avenue area of East Flatbush?

23 A Yes, sir.

24 Q How did you get to know that neighborhood?

25 A I was living over there.

McQuilkin - direct - DuCharme

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1 Q Over what period of time were you living over there?

2 A 2002 till 2005.

3 Q During that time did you spend time near Raleigh Place?

4 A Yes, sir.

5 Q Have you purchased marijuana in that area?

6 A Yes, sir.

7 Q Over what period of time did you purchase marijuana in  
8 the area of Raleigh Place?

9 A From 2002 till 2006 and then from 2007 till 2009.

10 Q Were some of those times at the direction of the FBI?

11 A Yes, sir.

12 Q Which times?

13 A From 2007 till 2009.

14 Q Who are some of the people you bought marijuana from in  
15 the area of Raleigh Place and Church Avenue?

16 A What period of time?

17 Q Let's say 2002 through 2000 -- what did you say, six?

18 A Yes.

19 Q How about at any time, Mr. McQuilkin, who are the people  
20 that you bought marijuana from at any time from Church Avenue  
21 and Raleigh Place?

22 A Birdman, Kion, Devon, Joe, Dre, Josh, Lindsey, amongst  
23 others.

24 Q Do you see any of those people in the courtroom today?

25 A Yes, sir.

McQuilkin - direct - DuCharme

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1 Q Who do you see?

2 A Birdman.

3 Q Can you please describe an item of clothing that he's  
4 wearing?

5 A Beige shirt, gray shirt.

6 MR. DuCHARME: If the record could reflect the  
7 witness has identified the defendant?

8 THE COURT: Yes.

9 Q Mr. McQuilkin, approximately how many times have you  
10 bought marijuana from the defendant?

11 A I can't really say exactly the amount because it's not  
12 like every time you buy marijuana you go home and write down  
13 "I bought it today, I bought it yesterday," but I would say  
14 close to about a hundred times.

15 Q Was that over the entire period of time that you were  
16 talking to the jury about?

17 A Yes, sir.

18 Q And where are some of the places that you bought  
19 marijuana from the defendant?

20 A Church, Raleigh, Fairview, Raleigh between Martense and  
21 Church.

22 Q I'm showing you a map that is in evidence as Government  
23 Exhibit 400. Can you see that up on the screen, sir?

24 A Yes, sir.

25 Q Using this map for a reference, were there any specific

McQuilkin - direct - DuCharme

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1 locations in the area of Church Avenue and Raleigh Place that  
2 you bought marijuana from the defendant, any particular spots?

3 A Raleigh between Martense and Church, Church between  
4 Raleigh and Fairview.

5 Q How about any specific stores or commercial areas or --

6 A A laundromat, Arab store. Outside sometimes.

7 Q I'm sorry, I interrupted?

8 A I said outside sometimes.

9 Q If you touch that screen, Mr. McQuilkin, with your finger  
10 you should be able to make a mark.

11 You said there was a laundromat?

12 A Yes, sir.

13 Q Using that map, can you figure out where the laundromat  
14 was that you purchased marijuana from the defendant?

15 A It would be over here (Indicating.) right on the corner  
16 of Raleigh and Church.

17 Q And you said there was a store as well. What street was  
18 the store on?

19 A Church, between Raleigh and Fairview.

20 Q Showing you a picture that is in evidence as Government  
21 Exhibit 439.

22 Do you recognize that?

23 A Yeah, that is the laundromat.

24 Q And I'm showing you a picture that is in evidence as  
25 Exhibit 444.

McQuilkin - direct - DuCharme

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1                   Do you recognize that?

2 A       Yeah. That is the Arab store.

3 Q       Why do you call it the Arab store, sir?

4 A       Because Arab people that own it.

5 Q       Mr. McQuilkin, have you ever seen the defendant with a  
6 firearm?

7 A       Yes, sir.

8 Q       Have you ever seen the defendant use a gun?

9 A       Yes, sir.

10 Q       To do what?

11 A       Shoot somebody.

12 Q       Who?

13 A       Belize.

14                   MR. DuCHARME: If I may approach, your Honor?

15                   THE COURT: Yes.

16 Q       Sir, I'm showing you what is in evidence as Government  
17 Exhibit 110. I ask you do you recognize that?

18 A       Yes, sir. That is Belize.

19 Q       How do you know Belize?

20 A       I know him from buying marijuana from him also and from  
21 being on Church Avenue.

22 Q       When did you buy marijuana from Belize?

23 A       Like 2003, 2004.

24 Q       Where did you buy marijuana from Belize?

25 A       Same Arab store.

McQuilkin - direct - DuCharme

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1 Q Do you know if Belize has any nicknames or other names?

2 A Trinny.

3 Q Other than buying marijuana, Mr. McQuilkin, have you  
4 committed other sorts of crimes?

5 A Yes, sir.

6 Q Generally what types of crimes have you committed?

7 A Selling drugs, robbery, assaults, shoplifting, picking  
8 pockets.

9 Q Was there ever an incident, Mr. McQuilkin, when you  
10 brought a gun to school?

11 A Yes, sir.

12 Q Approximately when did that happen?

13 A 1978.

14 Q How old were you in 1978?

15 A Fifteen.

16 Q Fifteen years old?

17 A Yeah.

18 Q What happened in that incident?

19 A I brung a gun to school and I was showing my friend the  
20 gun. He took it, dropped it on the floor and he got shot in  
21 his ankle.

22 Q Did you shoot the gun?

23 A No, it dropped it on the floor.

24 Q Why did you bring a gun to school, Mr. McQuilkin?

25 A I have no idea.

McQuilkin - direct - DuCharme

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1 Q What happened after the accident when the gun went off?

2 A I end up going to counseling.

3 Q I think you said you committed some shoplifting; is that  
4 right?

5 A Yes, sir.

6 Q How often have you engaged in shoplifting?

7 A A lot of times.

8 Q What sorts of things did you take?

9 A Clothing.

10 Q Did you ever get arrested for that?

11 A Yes, sir.

12 Q Convicted of that?

13 A No, sir.

14 Q What happened to those cases?

15 A They end up being dismissed after -- like I used to get  
16 arrested and they let you go because it's petty crimes and  
17 after awhile all them bolt up and when Immigration got me,  
18 they end up dismissing all the cases so Immigration could  
19 arrest me instead of prolonging it.

20 Q Did you also say that you engaged in robbery?

21 A Yes, sir.

22 Q And directing your attention to 1979. Were you involved  
23 in a robbery of a moped in 1979?

24 A Yes, sir.

25 Q How old were you then?

McQuilkin - direct - DuCharme

613

1 A Sixteen.

2 Q What happened in that incident?

3 A Me and my friend tried to take a guy moped and he got  
4 away but I end up getting caught, but we never got the moped.

5 Q How about chain snatching?

6 A Yeah.

7 Q How many times have you done that?

8 A I have done it one time.

9 Q Did you get in trouble for that?

10 A Yes.

11 Q Directing your attention to 1982, Mr. McQuilkin. How old  
12 were you then?

13 A Twenty-one, 22.

14 Q Were you involved in an incident on a bus in 1982?

15 A Yes, sir.

16 Q What happened on the bus, Mr. McQuilkin?

17 A Me and my friend was on a bus picking pockets and my  
18 friend got caught and they started beating him up and I pulled  
19 a knife out. The bus got to the next stop, the police was  
20 there waiting for us. We got arrested.

21 Q Did you use the knife?

22 A No, sir.

23 Q What did you get arrested for?

24 A Robbery, menacing.

25 Q Were you convicted of that?

McQuilkin - direct - DuCharme

614

1 A Yes, sir.

2 Q Did you do anytime for that?

3 A No. I got five years Probation.

4 Q Directing your attention to a few years after that, Mr.  
5 McQuilkin. Were you involved in another robbery involving  
6 some video gaming equipment?

7 A Yes, sir.

8 Q What happened in that incident?

9 A We all knew each other and we were shooting dice gambling  
10 and I won. They didn't pay me my money so the next day I went  
11 to their house, I knocked on the door, pulled a knife out. I  
12 went in the house, tied him up and took Atari and Betamax.

13 MR. DINNERSTEIN: I didn't hear that, your Honor.

14 THE COURT: What did you take?

15 THE WITNESS: Atari and Betamax.

16 Q Was anyone injured in connection with that incident?

17 A No, sir.

18 Q Were you arrested for that?

19 A Yes, sir.

20 Q Convicted?

21 A Yes.

22 Q Did you go to jail?

23 A Yes, sir.

24 Q About how long did you spend in jail to go that robbery?

25 A Five and a half years.

McQuilkin - direct - DuCharme

615

1 Q About when did you get out of jail?

2 A 1990.

3 Q After you got out of jail did you continue to be involved  
4 in criminal activity?

5 A Yes, sir.

6 Q Were you charged with a crack charge at some point after  
7 being released from jail?

8 A Yes, sir.

9 Q What happened in that incident?

10 A I end up pleading guilty and got conditional discharge.

11 Q Mr. McQuilkin, I think you also mentioned you were  
12 involved in assaults; is that right?

13 A Yes, sir.

14 Q In 1996, sir, sir, did you get arrested for hitting  
15 someone with a bottle?

16 A Yes, sir.

17 Q What happened in that incident?

18 A A lady that live on my block, her husband used to beat  
19 her up in the street, and one day he was beating her up in the  
20 streets. He had a beer bottle. I took the bottle from him  
21 and I end up busting him in his head and I got arrested for  
22 that.

23 Q Did you get arrested for that?

24 A Yes, sir.

25 Q What happened to the charge.

McQuilkin - direct - DuCharme

616

1 A It end up being dismissed.

2 Q Were you involved in another incident in 1997 in Coney  
3 Island?

4 A Yes, sir.

5 Q What happened there?

6 A Me and two females were in a store. They started arguing  
7 with the man and he started getting loud. I end up pushing  
8 him and they call the cops and I got arrested.

9 Q Did you get convicted of that?

10 A Yes, sir.

11 Q Do any time in jail?

12 A Yes, sir.

13 Q How much?

14 A Forty days.

15 Q Forty days?

16 A Yes, sir.

17 Q Mr. McQuilkin, in these times that you have been  
18 arrested, have you ever given false names?

19 A Yes, sir.

20 Q What are some of the names used when you have been  
21 arrested?

22 A Michael Johnston, Anthony Greg, Duran Simons, Charles  
23 McNee.

24 Q Why have you used false names, sir, when you have been  
25 arrested?

McQuilkin - direct - DuCharme

617

1 A Because I always had Immigration over my head.

2 Q At some point did Immigration catch up with you, Mr.

3 McQuilkin?

4 A Yes, sir.

5 Q When?

6 A April 1997.

7 Q What happened when Immigration caught up with you in  
8 April of 1997?

9 A I had the warrants for shoplifting so they had to take me  
10 to court, and after I went to court that's how Immigration get  
11 me. That's why all the stealing the clothes charges was  
12 dropped.

13 Q What did Immigration do with you?

14 A Deported me.

15 Q To where?

16 A Trinidad.

17 Q When did you get to Trinidad?

18 A May of 1997.

19 Q What did you do when you got to Trinidad?

20 A Well, I was planting stuff like down there. You plant  
21 your own food and you come and sell it on the streets. Then  
22 afterwards I was selling cigarettes and candy and gum, and I  
23 go to parties and sell gum and cigarettes and stuff like that.

24 Q At some point, Mr. McQuilkin, did you return to the  
25 United States?

McQuilkin - direct - DuCharme

618

1 A Yes, sir.

2 Q Approximately when did you return to the United States?

3 A January 2002.

4 Q Did you have permission to come back to the U.S.?

5 A No, sir.

6 Q How did you get back into this country?

7 A I stowed away.

8 Q What does that mean, "stowed away"?

9 A When you go on a ship, you hide in a place and when you  
10 reach port you sneak off.

11 Q What port did you come into?

12 A Miami.

13 Q Did you stay in Miami?

14 A No, sir.

15 Q Where did you go?

16 A Straight to Brooklyn.

17 Q What part of Brooklyn?

18 A Flatbush, East Flatbush.

19 Q Now when you got to East Flatbush, sir, back in 2002, how  
20 did you support yourself?

21 A Selling DVD's.

22 Q Any other way?

23 A Steering people to buy drugs sometimes.

24 Q Is that the steering that you talked about, pleading  
25 guilty to the federal charge before?

McQuilkin - direct - DuCharme

619

1 A Yes, sir.

2 Q When you say selling DVD's, what does that mean, Mr.  
3 McQuilkin? Explain to the jury how that business works.

4 A It's bootleg DVDs. Bootleg is when the movie come out  
5 but you know you're not allowed, you have people that pirate  
6 it, they make the same movie and they sell it to guys and we  
7 go on the streets. Say like a movie come out today, we would  
8 get it tomorrow and sell it on the streets. So it takes away  
9 the business from the people.

10 Q I'm showing you the map, sir, that is in evidence as  
11 Government Exhibit 400.

12 Do you see that?

13 A Yes, sir.

14 Q Did you sell DVD's in any of those areas?

15 A All up and down these areas.

16 Q In all the areas shown on Government Exhibit 400 or any  
17 areas more specifically?

18 A Up and down Church Avenue, up and down.

19 Q Over what period of time were you selling DVD's up and  
20 down Church Avenue?

21 A 2002 to 2006.

22 Q You testified earlier that at some point you met the  
23 defendant; is that right?

24 A Yes, sir.

25 Q Where did you meet the defendant?

McQuilkin - direct - DuCharme

620

1 A On Church, Raleigh, Fairview.

2 Q Over what period of time did you have contact with the  
3 defendant?

4 A From 2002 till 2004 and he disappeared for awhile and  
5 then in 2007 till 2009.

6 Q Do you know where he lived?

7 A No, sir.

8 Q During the times that you saw the defendant in East  
9 Flatbush, what are some of the specific locations that you saw  
10 the defendant in?

11 A Basically, from you could say Nostrand and Church to like  
12 34th, Raleigh, Martense, Church Avenue. In that location.

13 Q Did you see the defendant by himself or with other  
14 people?

15 A Sometimes I seen him by hisself, sometimes I seen him  
16 with other people.

17 Q Of the other people that you saw him with, who were some  
18 of those people, Mr. McQuilkin?

19 A Lindsey, Kion, Terra, black, Devon, amongst others.

20 MR. DuCHARME: If I may I approach, your Honor.

21 THE COURT: You may.

22 Q Mr. McQuilkin, I'm going to show you a series of  
23 photographs that are in evidence and ask you if you recognize  
24 these people. If you do, who they are, if you know.

25 The first one is Government Exhibit 102, which I'll

McQuilkin - direct - DuCharme

621

1 put on the board. Do you know who that is?

2 A Yes, sir.

3 Q Who is that?

4 A Bobby.

5 Q Government Exhibit 101. Do you know who that is?

6 A Yes, sir.

7 Q Ho is that?

8 A Joe.

9 Q Government Exhibit 100. Do you know who that is?

10 A Yes, sir.

11 Q Who is that?

12 A Kion.

13 Q Government Exhibit 109?

14 A Devon.

15 Q Government Exhibit 111?

16 A Birdman.

17 Q Government Exhibit 112?

18 A Lindsey.

19 Q Government Exhibit 106?

20 A Joe.

21 Q Government Exhibit 124?

22 A Sugar.

23 Q Government Exhibit 108?

24 A Dre.

25 Q Government Exhibit 107?

McQuilkin - direct - DuCharme

622

1 A Josh.

2 Q Government Exhibit 113?

3 A Black.

4 Q Government Exhibit 115?

5 A Terra, Torrel.

6 Q You said Terra are and what is the other thing you said?

7 A Torrel.

8 Q And how about Government Exhibit 125, do you recognize  
9 that person?

10 A Yes, sir.

11 Q Who is that?

12 A Rico.

13 Q Now, Mr. McQuilkin, with respect to the first person on  
14 the board there, Bobby, how do you know Bobby?

15 A I know Bobby from being he's the leader of all of them,  
16 basically.

17 Q What makes you say he's the leader of all of them  
18 basically?

19 A He wouldn't sell the marijuana but he was distributing  
20 the marijuana for them to sell.

21 Q What specifically did you see Bobby do, Mr. McQuilkin?

22 A I have seen him give Kion bulk of weed to go sell.

23 Q When you say a bulk of weed, what does that mean?

24 A Weed inside of plastic bag wrapped up, but a good  
25 quantity amount.

McQuilkin - direct - DuCharme

623

1 Q And over what period of time did you see Bobby doing  
2 that?

3 A From 2002 till around 2004, then he disappeared.

4 Q Where?

5 A Church, Raleigh, Martense, Fairview.

6 Q Did you ever buy marijuana from Bobby?

7 A No. He don't sell.

8 Q Who is Joe?

9 A Joe used to be Bobby's Lieutenant. He used to front  
10 Kion. Joe's the one who used to get the weed and distribute  
11 to the rest of the guys, but then he disappeared like in 2003.

12 Q What specifically did you see Joe do?

13 A Sell marijuana, give marijuana to others.

14 (Continued next page)

15

16

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25

*McQuillkin - direct/ DuCharme*

624

1 DIRECT EXAMINATION (Cont'd)

2 BY MR. DuCHARME:

3 Q Okay. Where?

4 A Raleigh, Martense, Church, Fairview.

5 Q Marijuana from Joe?

6 A Yes.

7 Q How often?

8 A Quite often, until he disappeared.

9 Q What about Kion, who's Kion?

10 A Kion is a person that sells marijuana, too, but after  
11 Joe, he became the main man now.

12 Q Kion?

13 A Yes, sir.

14 Q And what does that mean to be the "main man"?

15 A He is the one who started distributing the marijuana.

16 Q Who are some of the other people you have seen Kion  
17 distribute marijuana to?

18 A James (ph), Josh, Birdman.

19 Q Where?

20 A Same location -- Church, Fairview, Martense, Raleigh,  
21 Church.

22 Q How about Devon?

23 A Well, Devon, after Bobby disappeared, Kion and Devon was  
24 really in charge.

25 Q What makes you think that?

*McQuillkin - direct/ DuCharme*

625

1 A Because both of them were -- he became like -- Kion  
2 became like Bobby, and Devon became like Kion.

3 Q In what way?

4 A They was giving it to each other for sale.

5 Q Birdman, the next on the list, you talked already a  
6 little bit about him, what was your understanding, if any, of  
7 his relationship with the other men on the board?

8 A He was part of the team. He didn't hold the position  
9 like Kion and Bobby.

10 Q What makes you think that?

11 A He was like a worker.

12 Q What about Lindsey, how did you get to know Lindsey?

13 A Buying marijuana.

14 Q Where?

15 A Church, Raleigh, Fairview.

16 Q Over what period of time?

17 A About in 2000, 2002, 2003, 2004.

18 Q The individual who you referred to as Joe, what's the  
19 exhibit number for him, if you'd read that, sir?

20 A 106.

21 Q How did you get to know him?

22 A Buying marijuana also.

23 Q And what was our understanding of his relationship, if  
24 any, to the other men on the board?

25 A Worker. Part of the crew.

*McQuillkin - direct/ DuCharme*

626

- 1 Q What about Sugar?
- 2 A Worker. Part of the crew.
- 3 Q Did you buy marijuana from him?
- 4 A Yes.
- 5 Q Over what period of time?
- 6 A 2002 -- he was in and out -- 2004.
- 7 Q What does that mean "in and out"?
- 8 A Sometimes he was in, sometimes he wasn't.
- 9 Q How about Dre, how did you get to know him?
- 10 A Buying marijuana.
- 11 Q And how often did you buy marijuana from Dre?
- 12 A A lot of times.
- 13 Q And when you were buying marijuana from these men, did  
14 you ever observe other people buying marijuana from them?
- 15 A Yes, sir.
- 16 Q And who had you seen sell marijuana to people other than  
17 yourself?
- 18 A All of them.
- 19 Q Well, please be specific, sir.
- 20 A I saw Bobby -- no, not Bobby.
- 21 Q What about Joe?
- 22 A Yes.
- 23 Q Kion?
- 24 A Yes.
- 25 Q Devon?

*McQuillkin - direct/ DuCharme*

627

1 A Yes.

2 Q Birdman?

3 A Yes.

4 Q Lindsey?

5 A Yes.

6 Q Now, you were talking about Dre a moment ago?

7 A Yes, sir.

8 Q What specifically would you see Dre do?

9 A Well, Dre was like the most working one. Like, as far as  
10 he'd take any shift work, in the morning some times he would  
11 be out there. I have seen him give Kion money, you know, lump  
12 sum of money, come and pick up after he sell the drugs. Give  
13 Kion pack. I would stand out -- stand out with Dre sometimes.  
14 Lot of people would come to him.

15 Q You said shifts. What you do you mean by "shift"?

16 A I see Dre work in the morning from like six to like ten.  
17 Then another two would come on at ten to like two. Then  
18 another two would come up on from two all -- they work from,  
19 say, six in the morning until seven at night, you know, in  
20 shifts.

21 Q Well, was there -- did you ever observe any of these men  
22 selling marijuana after seven at night?

23 A No, sir.

24 Q Now, how about Josh, who is Josh?

25 A Josh sell marijuana with him.

*McQuillkin - direct/ DuCharme*

628

1 Q In the Church Avenue-Raleigh Place area?

2 A Yes.

3 Q Over what period of time?

4 A Well, 2002 until about 2004. Josh was the next one, Dion  
5 (ph) would disappear and come back.

6 Q Did you ever buy marijuana from Josh?

7 A Yes.

8 Q What about Blacks, who is Blacks?

9 A He is a little kid I knew when he was small. I bought  
10 marijuana from him but not until 2007. Back then he wasn't  
11 selling no marijuana.

12 Q Where did you get to know him when he was a kid?

13 A Up and down Church Avenue.

14 Q At what point did you start buying marijuana from Blacks?

15 A 2007.

16 Q In what area?

17 A Martense, Raleigh and Church.

18 Q How about Torrell?

19 A Yes.

20 Q How did you get to know Torrell?

21 A Buying marijuana from him.

22 Q Over what period of time did you buy marijuana from  
23 Torrell.

24 A Like, 2003, and he disappeared, and then from -- then  
25 2007 until 2009 I bought.

*McQuilkin - direct/ DuCharme*

629

1 Q I'm sorry?

2 A I bought marijuana and crack cocaine from him.

3 Q What about Rico, did you get to know Rico.

4 A Rico I usually saw at nighttime.

5 Q Where?

6 A Church, Raleigh, and Fairview.

7 Q Now, have you ever seen any of these men with guns,

8 Mr. McQuilkin?

9 A Yes.

10 Q Specifically, who on the board have you seen with a gun?

11 A Kion, Birdman, Torrell.

12 Q And under what circumstances have you seen Kion with a  
13 gun?

14 A Shooting after somebody.

15 Q Shooting after somebody?

16 A Yes, sir.

17 Q What specifically did you see Mr. McQuilkin?

18 A I was coming down Church Avenue. I see him chasing  
19 behind a guy going towards New York, going towards New York,  
20 and he was firing at the guy. I don't know if he hit him or  
21 if he didn't. I went back the other way.

22 Q Do you know who the guy was he was chasing?

23 A No, sir.

24 Q Approximately when dis you see that?

25 A That's around 2003.

*McQuilkin - direct/ DuCharme*

630

1 Q I am sorry?

2 A Around 2003.

3 Q And you indicated you had seen Torrell with a gun?

4 A Yes, sir.

5 Q Under what circumstances did you see Torrell with a gun?

6 A That was, I think, 2008. He was -- he just came and  
7 shooting in the air.

8 Q And do you know why he was shooting in the air?

9 A I don't know.

10 Q Was anyone else around?

11 A People were around.

12 Q Who, do you recall?

13 A Other people on the block.

14 Q Do you remember who any of them were?

15 A No, none of his team.

16 Q None of his team, is that what you said?

17 A Yes.

18 Q Now, you also indicated you'd seen Birdman with a gun?

19 A Yes, sir.

20 Q Under what circumstances did you see Birdman with a gun?

21 A Shooting Belize.

22 Q Now, did you have an understanding based on what you  
23 personally observed from, Mr. McQuilkin, of what Belize's  
24 relationship was to these men, if any?

25 A No, he was no part of the team.

*McQuillkin - direct/ DuCharme*

631

1 Q Why do you say that?

2 A Because he wasn't allowed to sell drugs.

3 Q What makes you say that?

4 A Because if he wasn't part of the team -- except Blacks,  
5 he wasn't around during that time -- you come on the block and  
6 they find out of that you see -- catch you selling weed on  
7 their block you are liable to get beat up, shot or whatever.

8 Q Have you ever seen any of these guys do that, chase  
9 somebody or beat them?

10 A I seen Kion chase people off the block.

11 Q What about specifically with Belize, did you ever see any  
12 confrontation between bell least an any of other men on the  
13 board?

14 A Yes.

15 Q And directing your attention to May or the, spring I  
16 should say, of, 2004 sir, did you see any confrontations  
17 between Belize and the men on the board in the spring of 2004?

18 A Yes, sir.

19 Q And what was the first confrontation that you saw between  
20 Belize and any of the men on the board?

21 A I seen Devon and Birdman telling Belize, yo, don't be  
22 selling no weed on this block.

23 Q What were you doing at that time?

24 A I was coming out Church Avenue walking past them, on  
25 Nostrand, and selling DVDs.

*McQuillkin - direct/ DuCharme*

632

1 Q Selling your DVDs?

2 A Yes.

3 Q What, if anything, drew your attention to this  
4 conversation?

5 A I heard him saying -- it was loud, it was aggressive,  
6 saying and I knew all three of them I knew and I know that  
7 Belize ain't supposed to be on the block selling no weed so --

8 Q Where did you see this conversation take place?

9 A By the Arab store, Church, between Raleigh and Fifth.

10 Q And what, if anything, did you hear the defendant say to  
11 Belize?

12 A I just finished telling you, you not be selling no weed  
13 on this block.

14 Q Who else was there?

15 A Devon and Birdman.

16 Q Did you hear whether or not Devon said anything?

17 A No.

18 Q Did you hear whether or not Belize said anything?

19 A No.

20 Q What was their tone?

21 A Aggressive.

22 Q And what happened after that?

23 A I kept walking.

24 Q Now, specifically, sir, directing your attention to  
25 May 26th of 2004, do you recall that day?

*McQuilkin - direct/ DuCharme*

633

1 A Yes, sir.

2 Q What were you doing that day?

3 A Selling my DVDs.

4 Q Where?

5 A Up and down Church Avenue.

6 Q And did there come a time when you took a break, sir?

7 A Yes.

8 Q What did you do to take a break?

9 A I went to the Arab store I showed you earlier and bought  
10 a cigarette.

11 Q Showing you what's in evidence as Government Exhibit 444,  
12 do you recognize that?

13 A Yes, that's the store there.

14 Q I'm showing you another photograph in evidence, sir, as  
15 Government Exhibit 472, do you recognize that?

16 A Yeah, that's Roti shop and Arab store.

17 Q That's another view of the same store?

18 A Yes, sir.

19 MR. DuCHARME: Can we have the picture blown up a  
20 little bit larger.

21 Q Mr. McQuilkin, I am going to put it up on the easel. Can  
22 you see that okay, sir?

23 A Yes.

24 Q Same picture on the screen?

25 A Yes.

*McQuilkin - direct/ DuCharme*

634

1 Q Now, what did that store look like inside, Mr. McQuilkin?

2 A We walked in. On the left it's a refrigerator with  
3 juices, sodas. In the back you got potato chips rack and on  
4 this side there's a -- like, a bullet proof, sell like candy,  
5 cigarettes, popcorn.

6 Q I am putting 444 back up so you can see that. Do you see  
7 where the door is open in that picture, sir?

8 A Yes.

9 Q On the night you went in to take a break on May 26th,  
10 2004, you recall whether the door was opened or closed?

11 A It was opened.

12 Q And why did you go into the store?

13 A To buy loose cigarette.

14 Q I'm sorry?

15 A I said loose cigarette, which means one single cigarette.

16 Q When you went into the store, sir, was anyone else  
17 present?

18 A Yes, sir.

19 Q Who else was present?

20 A It was other people in there and Belize was in the back  
21 by the potato chip rack.

22 Q Is Belize the same person you identified in Government  
23 Exhibit 110?

24 A Yes, sir.

25 Q What, if anything, did you say to Belize and what, if

*McQuilkin - direct/ DuCharme*

635

1 anything, did he say to you, sir?

2 A I said what's up Trinny and he said what's up Dude.

3 Q You said Trinny?

4 A Yes.

5 Q Is that one of his nicknames?

6 A Yes, sir.

7 Q While you were in there did you get a loosie cigarette,

8 Mr. McQuilkin?

9 A Yes.

10 Q And what, if anything, happened next?

11 A Birdman and Lindsey came into the store and told him, yo,  
12 man, I taught I told you don't be selling no fucking -- excuse  
13 my language -- no fucking weed on this block.

14 Q When Birdman and Lindsey came into the store did they say  
15 anything to you?

16 A They said what's up.

17 Q They said what's up?

18 A Yes.

19 Q And after the do you know who specifically said the words  
20 that you told the jury about?

21 A Both of them.

22 Q I'm sorry?

23 A Both of them.

24 Q They were both speaking?

25 A Yes, sir.

*McQuilkin - direct/ DuCharme*

636

1 Q And after they both said what they said to Belize, what,  
2 if anything, did Belize say back to them?

3 A Fuck you. Get the fuck out of my face.

4 Q He said that to Birdman?

5 A And to Lindsey.

6 Q What happened after Belize said that to Birdman and  
7 Lindsey?

8 A They walked out the store. They got on the bicycle and  
9 rode off on to Raleigh and Church.

10 Q When you say they got on the bicycle, was it one bicycle  
11 or more than one bicycle?

12 A One bike.

13 Q Both of them got on the same bike?

14 A Yeah. He was on the bike and Lindsey was riding.

15 Q How could you see them if you were still in the store?

16 A Because the door was open.

17 Q And which direction did they ride off of?

18 A Toward Raleigh and Church.

19 Q And what did you do after Birdman and Lindsey left the  
20 store?

21 A Came outside smoked my cigarette.

22 Q And where did you go to smoke your cigarette, sir?

23 A Right by -- closer to barbershop.

24 MR. DuCHARME: May I approach, Your Honor?

25 Mr. McQuilkin, I am showing you another picture

*McQuillkin - direct/ DuCharme*

637

1 that's in evidence. This is Government Exhibit 438, if we  
2 could just put that up over here.

3 Q Can you see that okay?

4 A Yes.

5 Q What's that?

6 A Barbershop (indicating).

7 Q Where's the candy store in relation to the barbershop in  
8 that picture?

9 A Right here (indicating).

10 Q When you came outside to smoke your cigarette where did  
11 you go?

12 A I came towards the barbershop and stood by the barbershop  
13 smoking my cigarette.

14 Q And was anyone else around?

15 A People walking up and down the street.

16 Q Do you remember specifically who any of those people  
17 were?

18 A I wasn't really paying no mind, no attention.

19 Q What, if anything, happened while you were smoking your  
20 cigarette out there?

21 A When Belize came out and he went inside the barbershop I  
22 was smoking my cigarette and after I finished smoking my  
23 cigarette I went in the barbershop trying to sell my DVDs.

24 Q Who was inside the barbershop when you went in there, if  
25 you recall?

*McQuillkin - direct/ DuCharme*

638

- 1 A The barbers, people getting haircut.
- 2 Q Do you remember any of the barbers?
- 3 A Dion, Swittle (ph) .
- 4 Q And what did you do once you got inside the barbershop?
- 5 A Tried to sell my DVDs.
- 6 Q Did you speak to Belize at all inside the barbershop?
- 7 A Not really.
- 8 Q What, if anything, happened, sir, while you were inside
- 9 the barbershop selling your DVDs?
- 10 A Lindsey came in the barbershop and told Belize, yoh, come
- 11 here, let me talk to you outside.
- 12 Q And what happened after Lindsey came in and said to
- 13 Belize, let me talk to you outside?
- 14 A Belize walked out. Walked behind him. Went outside with
- 15 him.
- 16 Q And what did you do?
- 17 A I was coming out the store, too -- barbershop.
- 18 Q And what did you see when you got outside?
- 19 A I seen Birdman, Lindsey, and Belize standing in front of
- 20 him.
- 21 Q And did you say anything to Birdman?
- 22 A No.
- 23 Q Did you hear him say anything?
- 24 A No.
- 25 Q What did you see happen next, sir?

*McQuillkin - direct/ DuCharme*

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1 A I seen Birdman put a gun and shot bop, bop and run. I  
2 took off running across the street and down towards Church and  
3 34th, the direction past Raleigh Place.

4 Q And when you say you saw Birdman take out the gun, where  
5 did he take out the gun from?

6 A From his waist.

7 Q Could you see the gun?

8 A Yes, sir.

9 Q Generally, what kind of gun was it?

10 A Handgun.

11 Q And where, specifically, did he put point the gun, if you  
12 could tell?

13 A Straight point blank at Belize's head.

14 Q When you say point blank, how far from Belize was Birdman  
15 when he took out the gun?

16 A That's Birdman, Belize was about right here, the wall is  
17 Belize (indicating).

18 Q If the wall was Belize?

19 A Yeah.

20 Q And was his hand close to his body or outstretched?

21 A Out. Pointing out (indicating).

22 Q What indicated to you that the gun was actually being  
23 fired?

24 A I heard the shots.

25 Q How many shots did you hear?

*McQuillkin - direct/ DuCharme*

640

1 A Two shots.

2 Q Did you see Lindsey with a gun?

3 A No, sir.

4 Q Could you see what happened to Belize after Birdman fired  
5 the gun at him?

6 A I didn't pay no attention. I was getting up out of  
7 there.

8 Q Why?

9 A He was shooting.

10 Q Did you make any eye contact with Birdman?

11 A Yeah, I looked at him while he was shooting him.

12 Q Did he look at you?

13 A No.

14 Q Where did you go from there?

15 A I ran across the street to the -- on the other side and  
16 ran straight down Church Avenue towards 34th Street.

17 Q Now, I'm showing you, sir, what's in evidence as  
18 Government Exhibit 468. Up on the chart -- up on the board --  
19 I'm sorry, do you see that, sir?

20 A Yes, sir.

21 Q And do you recognize that?

22 A Yes, sir.

23 Q And what do you recognize that to be?

24 A This would be the barbershop and 3115, and the part where  
25 I just punched would be the Roti shop, and this would be the

*McQuilkin - direct/ DuCharme*

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1 store.

2 Q If you bear with me, sir, if we can look at these  
3 photographs, the photograph that's in evidence as Government  
4 Exhibit 438 that depicts the barbershop, can you make a mark  
5 on the screen and indicate what that would be on the layout as  
6 Government Exhibit 468?

7 A (Witness indicating)

8 Q Let me show you this, Mr. McQuilkin, Government  
9 Exhibit 472 in evidence, do you see that?

10 A Yes.

11 Q On the layout that we have in evidence of Government  
12 Exhibit 468, are the tree and the phone booth reflected on  
13 that layout just as points of reference?

14 A Yes.

15 Q And 3111, sir, on the layout, what's that?

16 A That would be the Arab store.

17 Q Now, if you could indicate, Mr. McQuilkin -- I'm going to  
18 clear the screen for you. You told the jury before that you  
19 came out to smoke a cigarette on your break; is that right?

20 A Yes, sir.

21 Q Could you make a mark on the screen to indicate where you  
22 were smoking your cigarette?

23 A About right here (indicating).

24 Q And while you were smoking your cigarette, where did you  
25 see Belize go or do?

*McQuilkin - direct/ DuCharme*

642

1 A Go inside this.

2 Q From where?

3 A From Arab store he came, walk, and went up into the  
4 barbershop.

5 Q Now, when you came out of the barbershop you were telling  
6 the jury, Mr. McQuilkin, about who you saw outside when you  
7 first came out of the barbershop that night?

8 A Yes, sir.

9 Q And where did you see Belize, can you make a mark on the  
10 screen to indicate, approximately, where you saw Belize?

11 A I would say, like, about right there. Right there.

12 Q Near the phone booth?

13 A Yes.

14 Q And where were you?

15 A I was down towards this way (indicating).

16 Q Where did you see Birdman?

17 A Up about right here (indicating).

18 Q What about Lindsey?

19 A On the other side.

20 Q Was there anything in between in your line of sight in  
21 between you and Birdman, anything in your way?

22 A No, them two, Birdman and Lindsey, there and Trinny right  
23 here.

24 Q I guess what I am trying to ask is was there anything  
25 obstructing your view of Birdman?

*McQuilkin - direct/ DuCharme*

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1 A No, sir.

2 Q And you made a mark at the bottom of the screen there to  
3 indicate Birdman, and then Belize would be just in front of  
4 him closer to the --

5 A This would be -- the top would be Belize, down here would  
6 be Birdman, and on this other side would be Lindsey.

7 Q And is that where Birdman was standing when you saw him  
8 take out the gun?

9 A Yes, sir.

10 Q And after Birdman fired the gun at Belize did you see  
11 which way he went?

12 A I didn't stay around to see. I was getting up out of  
13 there.

14 Q Did you go to the police right away, Mr. McQuilkin, to  
15 tell them what you saw?

16 A No, I did not.

17 Q Why not?

18 A Because I know Immigration was looking for me and I  
19 figured I go to the police they would lock me up.

20 Q Well, at some point after that night, Mr. McQuilkin, did  
21 Immigration catch up with you?

22 A Yes.

23 Q And how did that happen?

24 A I got arrested on Church Avenue between Raleigh and  
25 Fairview selling my DVDs. Police arrest me, and took me, and

*McQuilkin - direct/ DuCharme*

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1 I used phony name, and they find out who I really was, and  
2 sent me to Immigration.

3 Q And after you were in Immigration custody, is that when  
4 you first started meeting with federal authorities?

5 A After I was in Immigration custody, then they sent me  
6 over to the federal courts.

7 Q Is that when you started working with the federal  
8 investigators?

9 A Yes.

10 THE COURT: When was that, what year?

11 THE WITNESS: 2006, like August.

12 THE COURT: That was about a couple of years after  
13 this happened?

14 THE WITNESS: Yes.

15 Q In between that time, Mr. McQuilkin, had you told anyone  
16 in law enforcement about what you'd seen that night?

17 A No, sir.

18 Q When was the first time you told someone in law  
19 enforcement about witnessing the shooting?

20 A 2006 July.

21 Q Now, after you agreed to cooperate, Mr. McQuilkin, did  
22 you make bail in your federal case?

23 A Yes, sir.

24 Q Approximately when did you get out on bail?

25 A June 2007.

*McQuilkin - direct/ DuCharme*

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1 Q And while you were out on bail did you agree to work  
2 undercover with the FBI?

3 A Yes, I did, sir.

4 Q Did you do any work specifically in connection with  
5 investigating the men on the board?

6 A Yes, sir.

7 MR. DuCHARME: May I approach, Your Honor?

8 Q What did the FBI ask you to do, Mr. McQuilkin?

9 A To go and buy drugs from them.

10 Q To go and buy drugs from them?

11 A Yes, sir.

12 Q When did you begin doing that?

13 A June 2007. June, July. Around there I started.

14 THE COURT: Mr. DuCharme, do you think we can take a  
15 15-minute break now?

16 MR. DuCHARME: It would be a great time.

17 THE COURT: So we will see you at about 12 o'clock.

18 Don't talk about the case.

19 THE CLERK: All rise.

20 (Whereupon, the jury exited)

21 (Court recessed); (Court resumed)

22 H A Y D E N M c Q U I L K I N , having been  
23 previously duly sworn/affirmed, resumed the stand and  
24 testified further as follows :

25 (Jury now present)

*McQuilkin - direct/ DuCharme*

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1           THE COURT: All right. For the record, sorry for  
2 the slight delay. I have a few balls I am bouncing at the  
3 same time. We are going to complete the direct examination of  
4 Mr. McQuilkin this morning -- by now it is afternoon -- before  
5 our lunch break, which will take about 20 minutes or so, and  
6 then we will come back after lunch. We will have  
7 cross-examination.

8           Continue. Mr. DuCharme.

9           MR. DUCHARME: Thank you.

10 DIRECT EXAMINATION (Cont'd)

11 BY MR. DUCHARME:

12 Q       Now, Mr. McQuilkin, before we broke we were talking about  
13 some of the undercover work you did for the FBI, do you  
14 recall that?

15 A       Yes, sir.

16 Q       And did you have a code name when you were working for  
17 the FBI?

18 A       Yes, sir.

19 Q       And what was your code name?

20 A       Hylander.

21 Q       Hylander?

22 A       Yes.

23 Q       Were there any names that you used on the street?

24 A       Dude, Rondue (ph), Do Man (ph).

25 Q       And were the buys that you did with the FBI, or at the

*McQuilkin - direct/ DuCharme*

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1 direction of the FBI, Mr. McQuilkin, were they recorded?

2 A Yes, sir.

3 Q And have you reviewed the recordings and the transactions  
4 that you engaged in?

5 A Yes, sir.

6 Q Mr. McQuilkin, I'm showing you what's been marked -- I'm  
7 sorry -- it's in evidence as Government Exhibit 420, do you  
8 recognize that?

9 A Yes, sir.

10 Q What is that?

11 A That's the recordings, the DVDs.

12 Q And have you had a chance to review the portions of the  
13 recordings that are on the DVD marked 420?

14 A Yes, sir.

15 Q Did those recordings fairly and accurately reflect what  
16 transpired on the street during your transactions?

17 A Yes, sir.

18 Q Now, Mr. McQuilkin, without revealing specifically how  
19 the camera is concealed, can you please describe for the jury  
20 how it works when you were wired up to go on the street?

21 A You have -- the camera will be on you, but you can't  
22 really all the time position it to the person because then if  
23 they move you move, so it would be hard to really capture  
24 because every time you move I move. You move, why did you  
25 move when I move, you moving. So it is hard to capture.

*McQuilkin - direct/ DuCharme*

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1 Sometimes when they stand still, then you can see it plain.

2 Sometimes there's some movement.

3 Q And is there audio recording as well?

4 A Yes, sir.

5 Q Now, Mr. McQuilkin, directing your attention to  
6 October 16th of 2007, were you involved in a recorded  
7 transaction on that day?

8 A Yes.

9 Q Do you recall what your instructions were that day --  
10 what you were told to do?

11 A Go and buy drugs.

12 Q Who gave you your instructions?

13 A FBI.

14 MR. DuCHARME: And we may have to adjust the volume  
15 here a little, but let's go ahead and try to roll the first  
16 tape. So the record is clear, I'm playing from folder H-1 in  
17 Government Exhibit 420, the first audio video in the folder.

18 (Tape played); (Tape stopped)

19 Q Now, Mr. McQuilkin, can you tell where you are?

20 A I am on Raleigh and Church Avenue.

21 Q You're on Raleigh an Church Avenue?

22 A Yes, sir.

23 MR. DINNERSTEIN: Is there an audio?

24 MR. DuCHARME: Yes. Can you hear anything?

25 MR. DINNERSTEIN: No.

*McQuilkin - direct/ DuCharme*

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1 MR. DuCHARME: It's very low.

2 THE COURT: There's no sound here at all.

3 MR. DuCHARME: Yes. I may need the assistance of  
4 Mr. Innelli, Your Honor.

5 THE COURT: Let me see whether I can get ahold of him.

6 (Pause in the proceeding)

7 We have to see if we can get some help.

8 (Deputy Clerk enters courtroom)

9 THE COURT: Can you help us out here?

10 MR. DuCHARME: We got it.

11 THE CLERK: Sorry. About that.

12 MR. DuCHARME: Thank you.

13 (Tape played); (Tape stopped)

14 Q Now, Mr. McQuilkin, where are you here, can you tell?

15 A Yes, I'm on Church between Raleigh and Fairview.

16 MR. DuCHARME: And maybe we can dim the lights to  
17 make it easier to see the screen -- the courtroom lights?

18 THE CLERK: They used to. No. They used to.

19 (Tape played); (Tape stopped).

20 Q Have you encountered someone here, Mr. McQuilkin?

21 A Yes, sir.

22 Q Who have you encountered.

23 A Birdman.

24 (Tape played); (Tape stopped)

25 Q Now, you see the street number there?

*McQuillkin - direct/ DuCharme*

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1 A Yes, sir.

2 Q What street number is that?

3 A 3119.

4 Q On what street?

5 A Church, between Raleigh and Fairview.

6 Q And where is that in relationship to the candy store and  
7 the location of the barbershop?

8 A Couple of stores down.

9 Q How come we can only see the top of his head?

10 A He's pretty short.

11 Q What are you talking to him about?

12 A Buying marijuana.

13 (Continued on page)

14

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*McQuillkin - direct - DuCharme*

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1 EXAMINATION CONTINUES.

2 BY MR. DUCHARME:

3 (Tape continues to play; tape stops.)

4 Q Did you hear what he said there?

5 A He said he got the green thing.

6 Q What does that mean, he's got the green thing?

7 A Weed, that's green.

8 Q Are there different names for weed on the street?

9 A Yes, a whole lot.

10 Q What are just a few of them?

11 A Yard weed, black.

12 Q And green?

13 A Yes.

14 Q What's the difference between green and black?

15 A Green is green and black is brown, brown basically.

16 (Tape plays; tape stops.)

17 Q What did you ask him for?

18 A I said did he have dizzies meaning dimes.

19 Q What did he say?

20 A He said no, he had quarters.

21 (Tape plays; tape stops.)

22 Q What's a quarter?

23 A A quarter ounce of marijuana.

24 Q Did he give you anything here?

25 A No, sir.

*McQuillkin - direct - DuCharme*

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1                   (Tape plays; tape stops.)

2 Q   What is happening here?

3 A   We are going around, going around the corner, on Raleigh  
4 between Martense and Church, to get the weed. I am going with  
5 him to get the weed.

6 Q   All right. What street are you on there? What street  
7 were you on when you went around the corner?

8 A   On Raleigh between Martense and Church.

9 Q   Is that where this clip continues from?

10 A   Yes.

11                  MR. DuCHARME: So the record is clear, I am playing  
12 from the second clip in folder H-1 in Government's  
13 Exhibit 420.

14                   (Tape plays; tape stops.)

15 Q   What is happening here?

16 A   I am waiting for him to bring me the marijuana.

17 Q   Where has he gone?

18 A   In the house.

19 Q   Do you know which house?

20 A   Sixteen.

21 Q   Who were you talking to there?

22 A   I am talk to Birdman.

23 Q   What were you talking about?

24 A   He brung me a quarter ounce of marijuana and I told him  
25 you know what, man, bring me another one.

*McQuillkin - direct - DuCharme*

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1 Q Where did he bring it from?

2 A Sixteen.

3 Q Sixteen Raleigh?

4 A Yes, sir.

5 (Tape plays; tape stops.)

6 Q What is happening here?

7 A Money is being passed and drugs.

8 Q Sorry. Did you pass money?

9 A Yes, sir.

10 Q How much?

11 A \$80.

12 Q Who did you give it to?

13 A Birdman.

14 Q What happened next?

15 A He end up going in the house and bringing back the other  
16 quarter.

17 (Tape plays; tape stops.)

18 Q Do you see where those cars are going by at the end of  
19 the block?

20 A Yes, sir.

21 Q What street is that?

22 A Martense.

23 (Tape plays; tape stops.)

24 Q Can you tell which of the residences here in this frame  
25 is the one the defendant went into? Which one? With the red

*McQuillkin - direct - DuCharme*

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1 awning and then there is another one?

2 A Yes. I am pointing on the screen.

3 Q I see. Thank you.

4 (Tape plays; tape stops.)

5 Can you see who is coming out there?

6 A Yes, sir.

7 Q Who is coming out?

8 A Birdman.

9 (Tape plays; tape stops.)

10 Q What are you talking to him about here?

11 A I asked him did he have weight in it.

12 Q What does weight mean?

13 A Like large amount of quantity, large quantity amount.

14 Q What do you consider to be weight?

15 A I was asking like for -- I was asking him how much a half  
16 a pound of marijuana would cost.

17 Q Half a pound of marijuana?

18 A Yes.

19 (Tape plays; tape stops.)

20 Q What happened there?

21 A He was on the phone talking to somebody else.

22 (Tape plays; tape stops.)

23 Q Did he give you a price for half a pound of marijuana?

24 A He said like 550.

25 Q Five-fifty?

McQuilkin - direct - DuCharme

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1 A Yes.

2 (Tape plays; then stops. )

3 Q Could you overhear what he was saying on the phone, sir?

4 A He was going into -- to sell somebody else some weed.

5 Q To sell somebody else some weed?

6 A Yes.

7 Q Did you ask him to give you his phone number?

8 A Yes, I did.

9 Q Did he do that?

10 A Yes, he did.

11 (Tape plays; tape stops.)

12 Q Mr. McQuilkin, did you get some marijuana from Birdman  
13 that day?

14 A Yes, sir.

15 Q What did you do with it?

16 A I took it and I gave it to the FBI agent.

17 Q Can you keep your voice up, sir?

18 A I took it and gave it to the FBI agent.

19 Q What agent did you give it to?

20 A Either Robert Foy or Jason Kaplan.

21 THE COURT: You have to try to keep your voice up,  
22 like I am.

23 THE WITNESS: All right.

24 THE COURT: Can you do that?

25 THE WITNESS: Yes, sir.

*McQuilkin - direct - DuCharme*

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1 Q Mr. McQuilkin, were you involved in another transaction  
2 on November 6th of 2007?

3 A Yes, sir.

4 Q Was that transaction recorded?

5 A Yes, sir.

6 MR. DuCHARME: Playing now from folder H-5 in  
7 Government's Exhibit 420.

8 (Tape plays; tape stops.)

9 Q Who are you talking to here?

10 A Birdman.

11 Q Is this on video or something else?

12 A Recording.

13 Q Of what?

14 A Phone conversation.

15 (Tape plays; tape stops.)

16 Q Now, Mr. McQuilkin, after you had this conversation with  
17 Birdman, did you go looking for him that night?

18 A Yes, sir.

19 MR. DuCHARME: Again I am playing from folder H-5,  
20 Government's Exhibit 420.

21 (Tape plays; tape stops.)

22 Q Where are you here, sir?

23 A Raleigh between Martense and Church.

24 Q Who are you speaking with?

25 A Blacks.

*McQuilkin - direct - DuCharme*

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1 Q Is that the individual on the board behind you, sir?

2 A Yes, sir.

3 Q What's the government Government Exhibit number for the  
4 picture of blacks?

5 A One hundred thirteen.

6 Q One hundred thirteen?

7 A Yes, sir.

8 (Tape plays; tape stops.)

9 Q What's going on here, Mr. McQuilkin?

10 A Peoples is having conversation. Has nothing to do with  
11 me and Blacks or Birdman.

12 (Tape plays; tape stops.)

13 Q What are you doing here?

14 A I am waiting to hear if somebody get in touch with him.

15 Q Keep your voice up.

16 A Waiting to hear somebody get in touch with him.

17 (Tape plays; tape stops.)

18 Q What did you say there, sir?

19 A What's up with Kion, man. He all right?

20 Q Who were you referring to?

21 A Kion.

22 (Tape plays; tape stops.)

23 Q Now, were you able to get any marijuana at this  
24 particular time?

25 A Yes.

*McQuilkin - direct - DuCharme*

658

1 Q From who?

2 A Blacks.

3 (Tape plays; tape stops.)

4 Q Who are you speaking to now?

5 A Blacks.

6 (Tape plays; tape stops.)

7 Q What does that mean, give me a dime?

8 A Ten dollars worth of marijuana.

9 Q Who were you talking to?

10 A Blacks.

11 Q Did he give you a dime?

12 A Yes, sir.

13 (Tape plays; tape stops.)

14 Q After you bought the dime of marijuana from Blacks, were  
15 you able to make another buy of marijuana that same night?

16 A Yes, sir.

17 MR. DuCHARME: Playing the next clip in H-5.

18 Q Where are you here, Mr. McQuilkin?

19 A In the laundromat.

20 Q Is that the laundromat on the corner of Church and  
21 Raleigh that you described earlier?

22 A Yes, sir.

23 (Tape plays; tape stops.)

24 Q Who is this?

25 A Birdman.

*McQuilkin - direct - DuCharme*

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1                   (Tape plays; tape stops.)

2 Q   What did you say there, sir?

3 A   I hope my man Kion is eating a little bit off of this  
4 food, man.

5 Q   What does that mean, eating a little bit off this food?

6 A   Like spending the -- I'm considering the money like food.  
7 I buy seven from you. I'm saying, make sure your friend get a  
8 little something out of it. I'm buying from you, you know  
9 what I mean. But I look out for your little friend. Hope he  
10 get a little piece out of it.

11                  (Tape plays; tape stops.)

12 Q   What's happening here, sir?

13 A   What?

14 Q   What's happening here?

15 A   We are about to make the transaction, give him the money  
16 and he give me the weed.

17                  (Tape plays; tape stops. )

18 Q   Now, Mr. McQuilkin, what if anything did you give to the  
19 defendant and what did he give to you?

20 A   I gave him cash and he in return gave me an ounce of  
21 marijuana.

22 Q   What did you do with the ounce of marijuana that the  
23 defendant gave you on that occasion?

24 A   I gave it to FBI agent.

25 Q   Were you involved in other recorded transactions,

*McQuilkin - direct - DuCharme*

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1 Mr. McQuilkin?

2 A Yes, sir.

3 Q All right. Directing your attention to November 8th of  
4 2007.

5 At this time I am playing a recording from the  
6 folder H-6 in Government's Exhibit 420.

7 (Tape plays; tape stops.)

8 Q Who are you talking to here?

9 A Birdman.

10 (Tape plays; tape stops.)

11 Q Mr. McQuilkin, after you had this telephone conversation,  
12 did you later see the defendant that same day?

13 A Yes, sir.

14 MR. DuCHARME: Playing the next clip in folder H-6.

15 (Tape plays; tape stops.)

16 Q Where is this?

17 A The same laundromat.

18 (Tape plays; tape stops.)

19 Q Who is that?

20 A Birdman.

21 (Tape plays; tape stops.)

22 Q What's in your hand there, Mr. McQuilkin?

23 A Money I am about to give him.

24 Q How much money are you about to give him?

25 A A hundred dollars.

*McQuilkin - direct - DuCharme*

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1                   (Tape plays; tape stops.)

2 Q     Mr. McQuilkin, did you get anything from the defendant on  
3 that occasion?

4 A     Yes, sir.

5 Q     What did you get?

6 A     An ounce of marijuana.

7 Q     What did you do with the ounce of marijuana that you got?

8 A     Gave it to the FBI agent.

9 Q     Directing your attention to November 15th of 2007.

10                  Sir, were you involved in a recorded transaction on  
11 that day?

12 A     Yes, sir.

13                  MR. DuCHARME: For the record, I am playing the clip  
14 in folder H-7-A in Government's Exhibit 420.

15                   (Tape plays; tape stops.)

16 Q     Do you recognize that voice?

17 A     Yes, sir.

18 Q     Whose voice is that?

19 A     Robert Foy.

20 Q     Who is Robert Foy?

21 A     FBI agent.

22                   (Tape plays; tape stops.)

23 Q     Now, after you made this call, Mr. McQuilkin, were you  
24 involved in other transactions on that day?

25 A     Yes, sir.

*McQuilkin - direct - DuCharme*

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1 MR. DuCHARME: I am playing the first clip in folder  
2 H-7.

3 Q Where are you here, sir, can you tell?

4 A Church between -- Raleigh between Church and Martense.

5 (Tape plays; tape stops.)

6 Q What happened there, Mr. McQuilkin?

7 A He was telling me where I was. I told him I was on the  
8 block in front of 16 Raleigh Place. He told me he be around.  
9 I say I hang out for ten minutes. I hang out for ten.

10 Q Did you stay in the area?

11 A Yes, sir.

12 MR. DuCHARME: I am playing the last clip now.

13 (Tape plays; tape stops.)

14 Q Where are you, sir?

15 A Church -- Raleigh, Church, Martense.

16 Q Who are you calling out to?

17 A Blacks.

18 Q Is that the person on the board?

19 A Yes, sir.

20 (Tape plays; tape stops.)

21 Q Did you see Blacks again that evening, sir, after you had  
22 this conversation with him on the street?

23 A Yes, sir.

24 (Tape plays; tape stops.)

25 Q Where are you here, sir?

*McQuilkin - direct - DuCharme*

663

1                   (Tape plays; tape stops.)

2 Q   What just happened there, Mr. McQuilkin?

3 A   I was just talking to Birdman on the phone and he told me  
4 to pass the phone to Blacks so he could tell him where the  
5 weed is at.

6                   (Tape plays; tape stops.)

7 Q   Who is that?

8 A   Blacks.

9                   (Tape plays; tape stops.)

10 Q   What happened after Blacks got off the phone, sir?

11 A   He went to the house, to bring me back a ounce of  
12 marijuana.

13                   (Tape plays; tape stops.)

14 Q   What just happened here?

15 A   Gave him the money for the weed.

16                   (Tape plays; tape stops.)

17 Q   Where are you here, sir?

18 A   I'm on Church, between Raleigh and FAirview.

19 Q   Did you get anything from Blacks that night?

20 A   Yes, sir.

21 Q   What did you get from him?

22 A   Ounce of marijuana.

23 Q   What did you do with the ounce?

24 A   I gave it to the FBI agent.

25 Q   Now directing your attention to March 7th of 2008. Were

*McQuillkin - direct - DuCharme*

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1 you involved in recorded transactions on that day?

2 A Yes.

3 MR. DuCHARME: For the record, I am playing the  
4 first clip in folder H-8 in Government's Exhibit 420.

5 THE COURT: How much longer do you have?

6 MR. DuCHARME: I think, Judge, probably 10 to  
7 15 minutes.

8 THE COURT: Well, let's see if we can shorten it.  
9 Do you need all of that?

10 MR. DuCHARME: I can try to speed things along. I  
11 can finish up in ten minutes.

12 THE COURT: It's getting somewhat repetitious. I  
13 will give you another five minutes and then we are going to  
14 adjourn for lunch.

15 MR. DuCHARME: Okay. We are going to jump ahead  
16 then to folder H-9 and directing your attention, sir, to  
17 April 23rd of 2008.

18 (Tape plays, tape /STA0PS.)

19 Q Where are you here?

20 A I am on Raleigh between Martense and Church.

21 Q Okay. What is happening?

22 A I am about to buy marijuana from Birdman.

23 (Tape plays; tape stops.)

24 Q Who is this over here, sir, going up the stairs?

25 A Terror.

*McQuilkin - direct - DuCharme*

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1 Q Did you get anything from the defendant that day?

2 A Yes; two ounces of marijuana.

3 Q What did you do with it?

4 A Gave it to the FBI agent.

5 Q Well just jump ahead now to the last folder. It is  
6 folder H-13.

7 Directing your attention to September 4. Were you  
8 involved in a recorded transaction that day?

9 A Yes, sir.

10 Q Where are you here?

11 A Church, Raleigh, Martense.

12 (Tape plays; tape stops.)

13 Q What happened on this occasion, Mr. McQuilkin?

14 A I was going to get two ounces from him but he didn't have  
15 enough and --

16 Q Keep your voice up, please.

17 A He didn't have enough marijuana at the time so we end up  
18 going in his car and taking a ride to pick up marijuana.

19 Q When you say he, who do you mean?

20 A Birdman.

21 Q Where did you leave from?

22 A Raleigh, Church, Martense.

23 Q Who is this other person in the hat here?

24 A Terror.

25 (Tape plays, tape stops.)

McQuillkin - direct - DuCharme

666

1 Q What happened there?

2 A Me and him got in his car and we was going to Flatbush  
3 and Ditmas.

4 Q During the course of the ride, did you have any  
5 conversations with the defendant?

6 A Yes, sir.

7 Q What did you talk about?

8 A I was talking about Bobby and other -- just chitchat.

9 Q Okay. Did you bring up Bobby or did he?

10 A I did.

11 (Tape plays; tape stops.)

12 Q What did you say there?

13 A What's up with Bobby, man.

14 (Tape plays; tape stops.)

15 Q Do you recall what if anything he said to you when you  
16 brought up the subject of Bobby?

17 MR. DINNERSTEIN: Your Honor, I object.

18 The tape speaks for itself.

19 THE COURT: Is it on the tape?

20 MR. DuCHARME: It's very difficult to hear, Your  
21 Honor. You can hear something.

22 THE COURT: You can say what --

23 MR. DuCHARME: His recollection is what I am asking.

24 THE COURT: You can answer that.

25 A He said -- I asked him, was he in Jamaica still. He

*McQuillkin - direct - DuCharme*

667

1 said, I don't really know.

2 Q He don't really know?

3 A No.

4 Q Did you know where Bobby was at that time?

5 A No, sir.

6 Q Do you know where Bobby is now?

7 A No, sir.

8 Q What happened next, sir?

9 A Riding on the way to go pick up the buy, for him to pick  
10 up the weed.

11 Q The clip I am playing now, can you tell what's going to  
12 happen?

13 Do you know where you are?

14 I will play a little more.

15 (Tape plays; tape stops. )

16 A Yes.

17 Q What's happening here?

18 A He about to go get a bulk of marijuana from another  
19 individual.

20 Q The right bottom hand corner of the street, who is that?

21 A Birdman.

22 Q What's he got in his hand?

23 A Black bag of marijuana.

24 Q The individual with the hat and the sunglasses, do you  
25 know where that is?

*McQuilkin - direct - DuCharme*

668

1 A No, I don't.

2 That's who he went and got it from.

3 (Tape plays; tape stops.)

4 Q Did you get any marijuana from the defendant that day,  
5 Mr. McQuilkin?

6 A Yes, sir.

7 Q How much?

8 A Two ounces.

9 Q What did you do with it?

10 A Gave to it FBI agent.

11 Q Mr. McQuilkin, aside from assisting the FBI in these  
12 undercover buys, have you provided any other types of  
13 assistance to the FBI in connection with this case?

14 A I don't understand.

15 Q Did you ever -- did you ever help the FBI try to find  
16 someone?

17 A Yes, sir.

18 Q Do you know someone called Sick?

19 A Yes, sir.

20 Q Who is Sick?

21 A Sick is Belize's friend.

22 Q How do you know that Sick is Belize's friend?

23 A They always be together.

24 Q What if anything did the FBI do as far as asking for your  
25 assistance if anything with respect to Sick?

*McQuillkin - direct - DuCharme*

669

1 A They asked me, do I know who he was. I said yes. They  
2 asked me, can we take a ride with them and see if we see him.

3 Q Did you do that?

4 A Yes, sir.

5 Q What happened?

6 A We end up seeing him.

7 Q Who is we?

8 A Me and the two FBI agents.

9 Q Who saw him?

10 A Jason Kaplan and Robert Foy.

11 Q How did they see him?

12 How did he come to their attention?

13 A I told him, that's him right there.

14 Q What happened after you pointed out Sick to Agent Foy and  
15 Agent Kaplan?

16 A Jason came out the car -- Mr. Kaplan came out the car and  
17 confronted Sick. Me and --

18 Q Did you see them have some interaction?

19 A No. I seen him confront him. I don't know what he said  
20 to him.

21 Q Did you yourself speak with Sick?

22 A No, sir.

23 Q Did you know whether or not the FBI ever spoke with Sick  
24 again after that night?

25 A No, sir.

*McQuilkin - direct - DuCharme*

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1 Q Mr. McQuilkin, do you know who the other trial witnesses  
2 are in this case?

3 A No, sir.

4 Q Do you know what other evidence has been presented to  
5 this jury aside from what's come out here today in front of  
6 you?

7 A No, sir. No, sir.

8 Q Have the FBI agents ever shown you any of their notes?

9 A No, sir.

10 Q Have they ever shown you any of their reports?

11 A No, sir.

12 MR. DuCHARME: I have no further questions, Judge.

13 THE COURT: All right. This is an appropriate time  
14 to take our lunch break. We will reconvene at 2:15. Don't  
15 talk about the case.

16 (Luncheon recess taken.)

17 (Continued on next page.)

18

19

20

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*McQuilkin - cross/ Dinnerstein*

671

1                   A F T E R N O O N   S E S S I O N

2                   (The following took place in the presence of the  
3                   jury)

4                   THE COURT: Okay. Mr. Dinnerstein.

5                   MR. DINNERSTEIN: Thank you, Your Honor.

6                   CROSS-EXAMINATION

7                   BY MR. DINNERSTEIN:

8                   Q       Now, you said on direct examination you spoke to agents  
9                   hundreds of times; is that correct?

10          A       Yes, sir.

11          Q       And each -- can you talk into the microphone or a little  
12              bit louder?

13          A       Yes.

14          Q       You can talk louder than that, correct, sir?

15          A       Yes.

16          Q       So talk louder so we can all hear you?

17                  Now, you said you spoke hundreds of times with the  
18              agents; is that correct?

19          A       Yes, sir.

20          Q       And each time you spoke to the agents how much time did  
21              it take?

22          A       It varied.

23          Q       Well, from the shortest amount to the longest amount?

24          A       Sometimes half hour, sometimes an hour.

25          Q       Sometimes two are three hours?

*McQuilkin - cross/ Dinnerstein*

672

1 A Sometimes.

2 Q That would be -- when you say hundreds, that would be  
3 more than a hundred, right?

4 A Yes, sir.

5 Q Now, how many times did you speak over here with  
6 Mr. DuCharme?

7 A About twenty times.

8 Q Twenty times.

9 Now, each of those twenty times how long did you  
10 spend talking with Mr. DuCharme?

11 A Sometimes two hours, sometimes four.

12 Q Sometimes four hours?

13 A Yes.

14 Q So all together you spoke with Mr. DuCharme anywhere  
15 between 40 and 80 hours, is that your testimony, sir?

16 A Possible.

17 Q And sir, you went over what you were going to testify to  
18 today; is that correct?

19 A Yes, sir.

20 Q And you did that all those times, those 40 to 80 hours;  
21 is that correct, sir?

22 A Yes, sir.

23 Q Now, the government also paid you money; is that correct?

24 A Yes, sir.

25 Q How much money have they paid you?

*McQuilkin - cross/ Dinnerstein*

673

- 1 A Over fifty thousand.
- 2 Q How much over fifty thousand?
- 3 A I know it is not sixty.
- 4 Q Not sixty?
- 5 A Yes.
- 6 Q It could be eighty?
- 7 A No, it's not.
- 8 Q It could be seventy-five?
- 9 A No, it's not.
- 10 Q So Agent Foy testified he gave you over \$75,000, Agent
- 11 Foy would be making a mistake; is that your testimony?
- 12 A I don't know what he testified.
- 13 Q I am telling you he said more than seventy-five he'd be
- 14 making a mistake; is that correct, sir?
- 15 A Possibly, yes.
- 16 Q Because they didn't give you anywhere near seventy-five,
- 17 right?
- 18 A No, sir.
- 19 Q Now, when were you last arrested?
- 20 A 2006.
- 21 Q And what were you arrested for in 2006?
- 22 A Selling DVDs.
- 23 Q And those were DVDs -- illegal bootlegged DVDs that you
- 24 talked about on direct examination?
- 25 A Yes, sir.

*McQuilkin - cross/ Dinnerstein*

674

1 Q How long had you been selling illegal DVDs?

2 A From 2002 to 2006.

3 Q And was that a profitable business selling illegal DVDs?

4 A Sometimes you make good money.

5 Q When you say "good money" how much money are we talking  
6 about?

7 A A hundred dollars a day.

8 Q A hundred dollars a day.

9 And how much was the government giving you?

10 A The government wasn't giving me nothing.

11 Q And they're giving how much money a month?

12 A Two thousand.

13 Q So \$2,000 would be about a hundred dollars a day, right?

14 A I don't know.

15 Q Well, presuming you worked five days a week that's 20  
16 days a month, right?

17 A Thirty days in a month.

18 Q Yes, but how many days would you work selling the DVDs?

19 A Sometimes six, seven; sometimes five.

20 Q And a good day would be one hundred dollars, right?

21 A Yes, sir.

22 Q Now, how about a not so good day?

23 A It varies.

24 Q Would sometimes you only make about twenty, thirty  
25 dollars?

*McQuilkin - cross/ Dinnerstein*

675

1 A Sometimes.

2 Q So the money with the government is a little more  
3 constant, right?

4 A But it's for my rent, sir.

5 Q Well, isn't the hundred dollars that you got per day for  
6 -- on the DVDs also -- didn't you use that money for your  
7 rent?

8 A Some of it sometimes.

9 Q Well, you'd have to pay your rent, right?

10 A I wasn't living by myself.

11 Q What?

12 A I was not living by myself.

13 Q So somebody else was paying your rent; is that correct?

14 A Sometimes I paid half, they pay half.

15 Q Sometimes when you work for the government somebody else  
16 could be paying your rent too, right?

17 A Nobody.

18 Q Now, you're living by yourself?

19 A No, I live with my family.

20 Q And does your family pay the rent?

21 A No, sir.

22 Q You pay the rent?

23 A Yes, sir.

24 Q Because you're the moneymaker now?

25 A No, sir.

*McQuilkin - cross/ Dinnerstein*

676

1 Q Then how do you pay the rent?

2 A The government pays the rent for me.

3 Q I see. Did they give you cash?

4 A Yes, sir.

5 Q And you used the cash for paying the rent, right?

6 A Yes, sir.

7 Q But you were arrested 2006 for the illegal DVDs you said  
8 that you lied to the government -- to the people who you were  
9 arrested by; is that correct?

10 A Yes, I used a false name.

11 Q That was the New York Police Department that arrested you  
12 on that occasion, right?

13 A Yes, sir.

14 Q Now, why did you use the false name?

15 A Immigration was looking for me.

16 Q And so you were afraid that Immigration would find out if  
17 you gave a true name, right?

18 A Yes, sir.

19 Q So you gave a false name because you thought it would  
20 benefit you; is that correct, sir?

21 A Yes.

22 Q And you would, of course, always do what is in your best  
23 interests; is that correct, sir?

24 A Yes, sir.

25 Q Now, you were, of course, hoping that the government

*McQuilkin - cross/ Dinnerstein*

677

1 would not find out what your real name was, right?

2 A Yes, sir.

3 Q Because if they found out what your real name was, then  
4 you had the possibility of being deported; isn't that correct?

5 A Yes, sir.

6 Q Because you'd come into the country illegally; isn't that  
7 correct?

8 A Yes.

9 Q Yes?

10 A Yes, sir.

11 Q And you, of course, did not want to get deported; is that  
12 correct?

13 A Yes, sir.

14 Q You want to remain in the United States?

15 A Yes, sir.

16 Q You don't want to go back to Trinidad; isn't that  
17 correct?

18 A Yes, sir.

19 Q And you don't want to, of course, go into jail for  
20 illegal re-entry into the United States; isn't that correct?

21 A Yes, sir.

22 Q Because you said you snuck into the United States back in  
23 -- what was it -- in 2002?

24 A Yes, sir.

25 Q Now, what you did was you told the -- but it didn't work,

*McQuilkin - cross/ Dinnerstein*

678

1 right?

2 A No, sir.

3 Q The government found out what your true identify was; is  
4 that correct?

5 A Yes, sir.

6 Q Is that right?

7 A Yes, sir.

8 Q You told the government that you had, and actually,  
9 somebody from the Immigration Service came to speak to you; is  
10 that correct?

11 A Yes, sir.

12 Q And that person's name was a Mr. Anderson; is that right?

13 A I don't recall his name.

14 Q I show you this piece of paper to see whether that  
15 refreshes your recollection as to who spoke to you from  
16 Immigration?

17 THE COURT: Just look at that and see whether you  
18 remember who you spoke with. Does that help you remember?

19 THE WITNESS: I don't understand.

20 THE COURT: It doesn't jog your recollection when  
21 you look at that?

22 THE WITNESS: No, sir.

23 THE COURT: I can't hear you.

24 THE WITNESS: No, sir.

25 THE COURT: He says it doesn't jog his recollection.

*McQuilkin - cross/ Dinnerstein*

679

1 Q Now, sir, you remember speaking to somebody at  
2 Immigration; is that correct?

3 A Yes, sir.

4 Q And was that in June of 2006 when you spoke to the person  
5 from Immigration?

6 A Yes, sir.

7 Q And since you were speaking to Immigration you knew that  
8 they knew who you truly were; is that correct?

9 A Yes, sir.

10 Q They knew your true name?

11 A Yes, sir.

12 Q They knew that you had come into the country illegally;  
13 isn't that correct?

14 A Yes, sir.

15 Q And you, as you sat there speaking to the person from  
16 Immigration, believed that you were going to get deported;  
17 isn't that correct?

18 A Yes.

19 Q You figured your only chance was to claim that you saw  
20 criminal activity; isn't that correct?

21 A No. I saw a criminal activity.

22 Q I understand that, sir. Now you are a truth teller, I  
23 understand that, but you thought that by claiming that you saw  
24 criminal activity you would have a chance of remaining within  
25 the United States; isn't that correct?

*McQuilkin - cross/ Dinnerstein*

680

1 A I didn't. I had actually.

2 Q So you told the Immigration Department -- the Immigration  
3 officer, that you knew about criminal activity; isn't that  
4 correct?

5 A Yes, sir.

6 Q You, of course, wanted to be truthful with Immigration at  
7 that time; isn't that correct?

8 A Yes, sir.

9 Q You wanted to tell them everything that you knew about  
10 criminal activity; isn't that correct?

11 A Yes, sir.

12 Q Now, sir, isn't it a fact that you never mentioned a  
13 murder in the 67 Precinct when you spoke to Immigration in  
14 June of 2006?

15 A I did mention it.

16 Q Well, take a look at that piece of paper. Doesn't that  
17 refresh your recollection, sir, that what you spoke about was  
18 a murder that occurred at the 71st Precinct?

19 MR. DuCHARME: Objection.

20 THE COURT: Well, the question could be rephrased,  
21 but you tell me, does that refresh your recollection as to  
22 what murder you were talking about at that time? Take a  
23 moment and look at that document and see whether you can tell  
24 the jury which murder, if any, it referred to.

25 THE WITNESS: That's not correct. It was 67.

*McQuilkin - cross/ Dinnerstein*

681

1 THE COURT: I'm sorry.

2 THE WITNESS: It's not correct.

3 Q So the Immigration officer who wrote this down wrote it  
4 incorrectly; is that what your testimony is, sir?

5 A He had to.

6 Q Because you didn't bring up a murder in the 71st  
7 Precinct, did you?

8 A No, I did not.

9 Q So they were just -- you didn't mention that you were an  
10 eye witness to a murder in the 71st Precinct in February of  
11 2003 when the victim's name was Fidel Moody; you didn't bring  
12 that up, right?

13 A No, sir.

14 Q So you don't know how that got on that piece of paper?

15 A No, sir.

16 Q You didn't tell him that the person who was murdered was  
17 murdered by a member of a Dominican street gang, did you tell  
18 them that?

19 A Now, I remember, yes.

20 Q Now you remember that?

21 A Yes.

22 Q So you did tell them about a murder that occurred within  
23 the 71st Precinct?

24 A And also in the 67.

25 Q What?

*McQuilkin - cross/ Dinnerstein*

682

1 A Also in the 67.

2 Q Well, isn't it a fact that as to the other murder, you  
3 only said that you had knowledge of the murder?

4 A That's not true.

5 Q Look at the piece of paper, sir. See if that refreshes  
6 your recollection.

7 THE COURT: He said it's not true. There's nothing  
8 to refresh.

9 Q So you told them about two murders that you eye  
10 witnessed, right?

11 A Yes.

12 Q So you don't know why they wrote it down differently; is  
13 that correct?

14 MR. DuCHARME: Objection.

15 THE COURT: Just a minute. I am giving you a little  
16 bit of play in the joints because there have not been any  
17 objections, but you can't use the paper for that purpose.  
18 It's not in evidence, and it's only used to see whether it  
19 jogs his recollection and the jury has heard that, and you  
20 can't accept the fact that that piece of paper says something  
21 as evidence. I just want to caution you about it. All right.

22 MR. DINNERSTEIN: Your Honor, I'd ask that this  
23 document be introduced into evidence as Defendant's Exhibit D.

24 MR. DuCHARME: Objection.

25 THE COURT: Sustained.

*McQuilkin - cross/ Dinnerstein*

683

1           These are rules of evidence which I have to apply.  
2 You may be curious as to why I am doing it. Once again, when  
3 I talk to you afterwards if you really want me to explain  
4 anything that happened during the course of the trial, I will  
5 accommodate you, all right, but in the meantime don't  
6 speculate why is the Judge making this ruling. I went to law  
7 school, I have been a judge for 16 years, I am supposed to  
8 know more than you I guess, right? So let's see how it goes.  
9 It doesn't mean I don't make mistakes sometimes but go ahead.

10 Q       Now, when you spoke to that person from Immigration you  
11 told -- was it a man or a woman, do you remember that now,  
12 sir?

13 A       It was a man.

14 Q       And you told him about these murders that you knew about,  
15 right?

16 A       Yes, sir.

17 Q       By the way, the murder at the 71st Precinct, the  
18 Dominican street gang, did you ever testify in that case?

19 A       No, sir.

20 Q       Did anybody ever ask you to testify?

21 A       No, sir.

22 Q       Now, you told somebody that you witnessed the murder;  
23 isn't that correct?

24 A       Yes, sir.

25 Q       And they chose -- whoever it was chose you not to be a

*McQuilkin - cross/ Dinnerstein*

684

1 witness in that case, correct?

2 MR. DuCHARME: Objection.

3 THE COURT: I am not so clear I understand what the  
4 question is. Rephrase. The objection sustained.

5 Q You were never a witness to a murder that you claimed you  
6 saw in February of 2003; is that correct, sir?

7 A I was never called.

8 Q Even though you witnessed the murder, right?

9 A I don't even know if he got arrested.

10 THE COURT: The question is whether you witnessed  
11 that particular murder.

12 THE WITNESS: Yes, sir.

13 THE COURT: You did witness it?

14 THE WITNESS: Yes, sir.

15 Q Now, sir, all these times that you saw criminal activity  
16 did you ever report them to the police?

17 A No, sir.

18 Q The only time you, sir, report criminal activity to the  
19 police is when you think you can receive a benefit by so  
20 reporting it; is that correct, sir?

21 A No, sir.

22 Q Well, that's what happened here; isn't that right?

23 A Yes, sir.

24 Q You didn't report criminal activity until after you  
25 thought you were going to get deported; isn't that correct,

*McQuilkin - cross/ Dinnerstein*

685

1 sir?

2 A Yes, sir.

3 Q And you didn't want to be deported?

4 A Yes, sir.

5 Q So you were trying to talk your way out of it; isn't that  
6 correct, sir?

7 A No, sir.

8 Q Well isn't that what you actually tried to do?

9 A No, sir.

10 Q You weren't trying to by helping the police help  
11 yourself?

12 A Yes, sir.

13 Q That's what you were trying to do, right?

14 A That's what I did.

15 Q Now, in 2004, sir, you claim that you saw the murder on  
16 May 26th; is that correct?

17 A I didn't claim; I saw it.

18 Q I understand what you are saying, sir, but when you saw  
19 the murder you then reported it to the police, right?

20 A No, I did not.

21 Q Why not?

22 A Because Immigration had --

23 Q I see, but now you have learned that if you're going to  
24 hustle the system you could use that to your advantage; isn't  
25 that correct, sir?

*McQuilkin - cross/ Dinnerstein*

686

1 A I am not hustling no system.

2 Q You're not? Do you know what it means to hustle?

3 A Yeah.

4 Q Hustle means you try to get something, right?

5 A I'm not trying to hustle no system.

6 Q You're trying to get -- you are getting \$2,000 a month;  
7 right?

8 A That's for protection because the last trial I did the  
9 people knew where I lived, so they ended up moving me for my  
10 family's safety.

11 Q Now, sir, selling DVDs, that's a hustle, correct?

12 A Yes.

13 Q And being on the government payroll, that's a different  
14 sort of hustle; isn't that correct, sir?

15 A I'm not gaining nothing. It's for my rent.

16 Q You are gaining money?

17 A It's for my rent and my safety.

18 Q I understand before when you worked selling those DVDs  
19 you used some of that money for paying your rent, right?

20 A Yes, sir.

21 Q So after you saw the murder you knew -- by the way, there  
22 was an investigation going on regarding the murder; isn't that  
23 correct?

24 A Yes, sir.

25 Q You saw there were a lot of police officers in the area,

*McQuilkin - cross/ Dinnerstein*

687

1 right?

2 A There's always police officers up around Church Avenue.

3 Q You said especially after the murder there were even more  
4 police officers?

5 A I am not sure.

6 Q Did you know whether the police department was  
7 investigating the murder that occurred on Church Avenue on  
8 May 26th, 2004?

9 A I am quite sure they was.

10 Q Well, you claimed, oh, you do have information about that  
11 murder, right?

12 A Yes.

13 Q And you did not go to the police because you were worried  
14 about yourself; isn't that correct?

15 A Yes, sir.

16 Q And that was more important to worry about yourself than  
17 to help solve a crime; isn't that correct?

18 A Yes, sir.

19 Q And you claimed, sir, that Belize was your friend; isn't  
20 that correct?

21 A He was my friend.

22 Q You weren't interested in solving the murder of a friend  
23 of yours; isn't that correct?

24 A I was in fear for myself.

25 Q You were in fear for yourself that you were going to get

*McQuilkin - cross/ Dinnerstein*

688

1      deported?

2    A    Yes, sir.

3    Q    And you remain today in fear for yourself that you may  
4    get deported; isn't that correct?

5    A    I may get deported.

6    Q    That's right.

7               You're trying to help yourself so you won't get  
8    deported; isn't that why you're here?

9    A    I'm here to tell the truth.

10   Q    And in the 40 to 80 hours that you spent with  
11   Mr. DuCharme, and the hundreds of hours that you spent with  
12   the agents did you keep on learning that what you're supposed  
13   to say is I'm here to tell the truth?

14   A    No, sir.

15   Q    Nobody ever told you to tell the truth?

16   A    That is part of the agreement to always tell the truth.

17   Q    Well, you know, sir, that it's the government, the  
18   prosecution, who decides what the truth is; isn't that right?

19   A    I thought it was the jury.

20   Q    Now, if they don't write the letter you go to the jail  
21   for at least ten years; isn't that right, sir?

22   A    Yes, sir.

23   Q    So the first step is to please the government, right?

24   A    No, it's to tell the government the truth.

25   Q    So the government gives the letter to the Judge, right?

*McQuilkin - cross/ Dinnerstein*

689

1 A Yes, sir.

2 Q Without the letter you're doing at least ten years,  
3 right?

4 A Yes, sir.

5 Q And then you're going to get deported, right?

6 A Yes, sir.

7 Q Now, you said, sir, that you were deported in 1997; is  
8 that correct?

9 A Yes, sir.

10 Q And that's because you had already committed a number of  
11 crimes; is that right?

12 A Yes, sir.

13 Q In 1997 how old were you?

14 A About 36.

15 Q Let's go back and talk about some of the crimes you  
16 committed. Do you know how many crimes you did commit?

17 A No.

18 Q What?

19 A No.

20 Q Do you have any approximate number of crimes you  
21 committed?

22 A No.

23 Q Would you say hundreds?

24 A No.

25 Q Would you say dozens?

*McQuilkin - cross/ Dinnerstein*

690

1 A A little more.

2 Q Would you say 50?

3 A No, I don't know. It's on my record.

4 Q I am not talking about your record, I am talking about  
5 you committed crimes you got away with, right?

6 A And I told the government about it.

7 Q I didn't ask you that, sir. You committed crimes that you  
8 got away with, right?

9 A Yes, sir.

10 Q And you committed -- your record has about 25, right?

11 A I don't know.

12 Q You have no idea?

13 A I have no idea.

14 Q Okay. Let's talk about some of your crimes. Okay. 1979  
15 when you were, what, 16?

16 A Yes, sir.

17 Q Then you stole a moped?

18 A I tried to.

19 Q You tried to steal a moped. Whose moped was it?

20 A Somebody else's.

21 Q I understand that. Did you know the kid whose moped you  
22 were stealing?

23 A No, sir.

24 Q How did you try to steal the moped?

25 A Tried to take it from him.

*McQuilkin - cross/ Dinnerstein*

691

1 Q Did you push him, did you pull a knife, did you pull a  
2 gun, what did you do?

3 A Me and my friend just tried to take the bike from him  
4 with our hands.

5 Q Did you try to push him?

6 A We tried to hit him and get the bike.

7 Q Pardon?

8 A Tried to hit him and get the bike.

9 Q And what did you try to hit him with?

10 A My hands.

11 Q What?

12 A My hands.

13 Q And did your friend -- what was his name, by the way?

14 A Sevier (ph).

15 Q Where does he live now, do you know?

16 A I don't have no idea.

17 Q Were you prosecuted for trying to steal the moped?

18 A It ended up being dismissed.

19 Q So you went to court and then it was eventually  
20 dismissed, right?

21 A Yes.

22 Q And was your friend -- was he also arrested?

23 A No.

24 Q Just you, right?

25 A Yes.

*McQuilkin - cross/ Dinnerstein*

692

1 Q Did you tell the police that you had committed a crime  
2 with a friend of yours?

3 A They already knew.

4 Q So did they arrest him?

5 A No.

6 Q So I didn't ask you that, sir. I said did you tell the  
7 police where your friend lives in and whether or not you  
8 helped the police on that occasion get this friend of yours  
9 arrested?

10 A He ran. The police seen him. He ran. I got caught. So  
11 they knew.

12 Q You mean they knew who it was who ran?

13 A Basically, yeah.

14 Q Did you tell the police where that person lived?

15 A They never asked me.

16 Q I see. Did you volunteer it?

17 A No.

18 Q Did you think it might help you in your case if you told  
19 the police the other person was involved?

20 A I was arrested. I was the first arrest.

21 Q So you did not know how to talk your way out of that  
22 arrest?

23 A I was not talking my way out.

24 Q That time you didn't try to talk your way out of it; is  
25 that correct, sir?

*McQuilkin - cross/ Dinnerstein*

693

1 A I am not trying to talk my way out.

2 Q What?

3 A I got arrested.

4 Q You got arrested on this occasion, too, right?

5 A Yes, sir.

6 Q And this occasion the stakes were much bigger, right?

7 A Yes, sir.

8 Q Well, much bigger than stealing a moped when you were 16  
9 years old, right?

10 A Yes, sir.

11 Q And this one they're talking about sending you to jail  
12 for illegal reentry into the United States, right?

13 A Yes, sir.

14 Q And then after that they're talking about sending you  
15 back to Trinidad, which is a place where you don't want to go  
16 to, right?

17 A I don't have a choice.

18 Q But you have a choice if you can talk your walk out of  
19 it; isn't that correct?

20 A I am not trying to talk my way out of it. All I'm doing  
21 is sitting here and telling the truth.

22 Q In 2004 when you claim you saw this incident you didn't  
23 want to tell the truth then, right?

24 A I saw it. I didn't claim.

25 Q Did you want to tell police what you saw in 2004 when you

*McQuilkin - cross/ Dinnerstein*

694

1 saw a murder?

2 A I wouldn't tell the police that. I figured if I tell  
3 them that I'm going to be deported.

4 Q It is more important to deal with your own self-interest  
5 than helping the police solve a murder; is that your  
6 testimony, sir?

7 A In that incidence, yes, sir.

8 Q After the '79 moped, you say you brought a gun to school,  
9 right?

10 A That was before '79, sir.

11 Q So when did you bring the gun to school?

12 A Around '70.

13 Q '70 what?

14 A '78.

15 Q And you say -- and what's the reason you brought the gun  
16 to school?

17 A I don't know. I just brung it to school.

18 Q You didn't plan to use the gun in committing crimes, did  
19 you?

20 A No.

21 Q You just were having the gun because you thought it was  
22 cool, right?

23 A Basically.

24 Q And you were showing off and you showed somebody the gun;  
25 is that correct?

*McQuilkin - cross/ Dinnerstein*

695

1 A Yes.

2 Q And this was -- what grade were you in?

3 A The 9th grade.

4 Q You were able to get the gun, that was before they had  
5 these metal detectors at the school, right?

6 A Yes, sir.

7 Q So you were just able to bring the gun into school,  
8 right?

9 A Yes, sir.

10 Q And you showed a friend of yours the gun; is that  
11 correct?

12 A Yes, sir.

13 Q Where? Where in school did you do that?

14 A Alexander Hamilton.

15 Q Was it in the classroom?

16 A Yes, it was in the classroom.

17 Q Right in the classroom where there were other kids  
18 around?

19 A Yes, sir.

20 Q And you wanted to show off that gun to all the kids in  
21 the room?

22 A No, I passed it to my friend.

23 Q In the class?

24 A Yes, sir.

25 Q What class was it?

*McQuilkin - cross/ Dinnerstein*

696

1 A What class?

2 Q Yeah. What were you learning?

3 A It was math class.

4 Q What?

5 A Math class.

6 Q Math class.

7 And when you took out the gun you say it dropped to  
8 the ground and it went off?

9 A No, I gave it to him, and it dropped from him.

10 Q In the class?

11 A Right.

12 Q With all the other kids around?

13 A Yes.

14 Q And then what happened?

15 A The gun went off and shot him in his ankle.

16 Q He was holding the gun when it shot?

17 A The gun was on the floor when it went off.

18 Q I understand. So he dropped the gun?

19 A And it went off.

20 Q He dropped the gun and the gun went off and it shot him?

21 A Yes.

22 Q How big of a gun was it.

23 A It was a .32.

24 Q And had you ever fired that gun before?

25 A No, sir.

*McQuilkin - cross/ Dinnerstein*

697

1 Q Now, I presume that the gun going off in the classroom  
2 caused a stir in the classroom; is that correct?

3 A Yes, sir.

4 Q What happened?

5 A What happened, they took me out of the classroom, took me  
6 to the dean's office, and I'd been in counselling for it.

7 Q What?

8 A Counselling.

9 Q I see.

10 When it went off weren't the other children in the  
11 classroom -- were they upset that a gun was in their  
12 classroom?

13 A I am quite sure they was. I -- I don't know if they was  
14 or they wasn't.

15 Q Were you able to go back to that classroom ever?

16 A No.

17 Q They took you and put you into a different school?

18 A Yes, sir.

19 Q And how about your friend that you gave the gun to, did  
20 he remain in this school or did he also go to a different  
21 school?

22 A Actually, he stayed in the same school.

23 Q So you, of course, told everybody that you were the one  
24 who brought the gun into the classroom; is that correct?

25 A Yes, I did.

*McQuilkin - cross/ Dinnerstein*

698

- 1 Q What kind of counselling did you get, sir?
- 2 A Go and sit down and talk to the counselor.
- 3 Q How many times did you sit and talk to the counselor?
- 4 A Maybe twice a week.
- 5 Q For how long?
- 6 A Say, about four hours.
- 7 Q Twice a week for four hours. Four hours in total?
- 8 A Per time.
- 9 Q How many times did you go?
- 10 A I can't remember, sir.
- 11 Q Was it ten weeks, or twenty weeks?
- 12 A I cannot remember. I was fifteen years old.
- 13 Q I understand that, sir. Do you remember how many times?
- 14 A I don't.
- 15 Q Do you remember what you learned from the counselor?
- 16 A Keep guns away from me.

17 (Continued on next page)

18

19

20

21

22

23

24

25

McQuilkin - cross - Dinnerstein

699

1 BY MR. DINNERSTEIN:

2 Q Keep guns away from you?

3 A Yeah.

4 Q I see. So you learned that you should not have a gun in  
5 a classroom, correct?

6 A Period.

7 Q And that's the last time you ever had a gun?

8 A Yes, sir.

9 Q Never had a gun in all your years of crime, you never  
10 once again had a gun, right?

11 A No, sir.

12 Q When you went to the counseling session did they tell you  
13 that it probably isn't such a good thing to rob other people?

14 A It wasn't about that. It was more seeing something was  
15 wrong with me mentally.

16 Q I understand that. But after the counseling, you told us  
17 on direct examination that you committed a whole bunch of  
18 robberies; is that correct?

19 A Not a whole bunch.

20 Q What?

21 A What I told them is what I committed.

22 Q How many robberies did you commit in your life?

23 A I don't know, sir.

24 Q Well, you have no idea?

25 A You don't count. You don't do something and count this

McQuilkin - cross - Dinnerstein

700

1 time I did it, I go write it down. I don't remember.

2 Q How about approximately?

3 A I don't remember.

4 Q You don't even remember approximately how many you  
5 committed?

6 A No.

7 Q When you committed robberies did you use weapons?

8 A I used a knife.

9 Q That's a weapon, right?

10 A Yes, sir.

11 Q And you actually stabbed people with knives?

12 A I never stabbed nobody.

13 Q You never -- you were charged with assaulting people; is  
14 that correct?

15 A That was hitting a person in the head with a bottle.

16 Q You got time in jail for hitting a person in the head  
17 with a bottle?

18 A It was dismissed.

19 Q Well, sir, you said you spent five and a half years in  
20 jail, right?

21 A Yes, sir.

22 Q What did you spend that time in jail for?

23 A Ten dollar sale of powder cocaine and robbery.

24 Q And what?

25 A Robbery.

McQuilkin - cross - Dinnerstein

701

1 Q Robbery. Tell us about the robbery, what did you do  
2 during that robbery?

3 A I tied the people up and took the Atari and Betamax.

4 Q You tied them up?

5 A Yes, sir.

6 Q Now, how did you get -- you broke into their house?

7 A No. I knocked on the door and they opened it.

8 Q You knocked on the door?

9 A Yes, sir.

10 Q They let you in the house?

11 A Yes, sir.

12 Q And then you tied them up?

13 A Yes, sir.

14 Q When you tied them up were you by yourself?

15 A No, sir.

16 Q Who else was with you?

17 A An ex-person.

18 Q What?

19 A An ex-dude.

20 Q What is his name?

21 A Candu.

22 Q Candu what?

23 A I don't know his last name.

24 Q You don't remember?

25 Do you remember where he lived?

McQuilkin - cross - Dinnerstein

702

1 A Do I remember where he lived?

2 Q Yes.

3 A At that time I knew where he lived.

4 Q Was he arrested?

5 A I don't know if he got arrested afterwards when I went to  
6 jail. They knew who Candu was also.

7 Q "They" being the police knew?

8 A Of course the police knew. They locked me up.

9 Q How were you quite sure the police knew?

10 A I don't know if they knew or not.

11 Q Are you quite sure that they knew or you don't know,  
12 which one?

13 A I don't know if the complainants told the police about  
14 him. They knew him also.

15 Q But they told the police about you, right?

16 A I got caught.

17 Q You got caught in the apartment?

18 A No.

19 Q Where did you get caught?

20 A On the streets.

21 Q After you took this person's property; is that correct?

22 A Yes, sir.

23 Q Now, you said you tied them up, right?

24 A Yes, sir.

25 Q What did you use to tie them up with?

McQuilkin - cross - Dinnerstein

703

1 A Extension cords.

2 Q Did you bring the extension cords to the apartment so  
3 that you could use it to tie them up?

4 A No. It was in the apartment.

5 Q Did you tie them from behind, in front?

6 A From behind, yes, sir.

7 Q Did you or Candu, did either of you have weapons?

8 A I had a knife.

9 Q You had a knife. You pointed the knife at these people?

10 A Yes, sir.

11 Q And you pointed the knife to get property; is that  
12 correct?

13 A Yes, sir.

14 Q Why did you need to tie them up?

15 A Why did I need to tie them up?

16 Q Yes?

17 A Why?

18 Q That's the question.

19 A So I take their stuff.

20 Q What?

21 A So I could take their stuff and leave.

22 Q Couldn't you just tell them to go into another room and  
23 stay there and you could then take the stuff?

24 A That wouldn't make sense.

25 Q No? Did you tie them up so that you could scare them a

McQuilkin - cross - Dinnerstein

704

1 little bit?

2 A I tied them up because I robbed them, I admit I robbed  
3 him. I tied him up, I admit I tied him up. I took the stuff  
4 and I left.

5 Q I'm asking you, sir, why did you tie them up?

6 A I tied them up.

7 Q Why?

8 A 'Cause I robbed them.

9 Q Did you tie them up because you wanted to intimidate  
10 them?

11 A I tied them up because I didn't want no struggle and I  
12 could leave the apartment with the stuff and go about my  
13 business and get away without the police catching up to me  
14 right there.

15 Q So you also mentioned -- and this was somebody that you  
16 thought was a friend of yours that you tied up, right?

17 A I knew he was a friend of mine.

18 Q What?

19 A I knew he was a friend of mine.

20 Q And this friend, you decided that the only way you could  
21 get your property back was to intimidate him and to tie him  
22 up; is that correct, sir?

23 A I robbed him, period.

24 Q He was a friend. Do you usually rob friends?

25 A He owed me money and didn't want to pay my money.

McQuilkin - cross - Dinnerstein

705

1 Q And that was the way you felt that you would deal with  
2 this situation; is that correct?

3 A At the time, yes.

4 Q What?

5 A At the time, yes.

6 Q Well, was it a good way to deal with the situation?

7 A Looking back at it, no.

8 Q That's because you spent five years in jail, right?

9 A No, because I'm older now and I see things different.

10 Q You also say, sir, that you stole clothes, right?

11 A Yes, sir.

12 Q And when did you steal -- when did you steal clothes?

13 A Like from '95 to '97.

14 Q How do you steal clothes, sir?

15 A Go in the store, have a bag, security ain't looking,  
16 stole the thing, put it in, walk out.

17 Q How many times would you say you tried to steal clothes?

18 A How many times I stole clothes?

19 Q Yes.

20 A A lot of times.

21 Q What?

22 A A lot of times.

23 Q You say a lot, how many is a lot?

24 A Again, it's not every time you go and steal the clothes  
25 you write it down, now I'm up to 16, now I'm up to 17. I have

McQuilkin - cross - Dinnerstein

706

1 no idea, sir.

2 Q You have no idea. Could it be more than 50?

3 A No, not more than 50.

4 Q Did you go every day to steal clothes?

5 A No.

6 Q Did you go once a week to steal clothes?

7 A Sometimes it varied. Sometimes I might go three days in  
8 a row. Sometimes I might not go for a week.

9 Q What types of clothes would you steal?

10 A Jeans, shirts.

11 Q Was this for your own personal use or did you give it  
12 away to somebody else?

13 A I sold it.

14 Q You sold it?

15 A Yes, sir.

16 Q So you sold -- like you would sell DVD's, bootleg DVD's,  
17 you would also sell stolen clothing; is that correct?

18 A Yes, sir.

19 Q Sometimes you would do that three times a week?

20 A Sometimes.

21 Q How much money would you make selling stolen clothing,  
22 sir?

23 A Again, it varies. You might go in there and only steal  
24 two pants, you might go in there and steal four pants, so I  
25 can't say on average how much.

McQuilkin - cross - Dinnerstein

707

1 Q When you would steal the pants you would put them in a  
2 bag when the security guard wasn't looking; is that correct?

3 A Yes, sir.

4 Q And then you would try to sneak out of the store; is that  
5 correct?

6 A Yes, sir.

7 Q And so, in other words, the way one steals clothes is to  
8 try to be deceptive; isn't that correct, sir?

9 A Yes, sir.

10 Q Because you have to put it over on the security guard and  
11 the people in the store; is that correct?

12 A Yes, sir.

13 Q Because if they see you stealing the clothes then they're  
14 going to arrest you, right?

15 A Yes, sir.

16 Q And you were arrested a few times for stealing clothes?

17 A Yes, sir.

18 Q How many times?

19 A About five times, six times.

20 Q Now, sir, you also said you snatched chains; is that  
21 correct?

22 A Yes, I snatched a chain before.

23 Q How many times?

24 A I snatched chains like two times.

25 Q And you also said you did pick pocketing; is that right?

McQuilkin - cross - Dinnerstein

708

1 A Yes, sir.

2 Q And that would be you would go on a bus and you would try  
3 to take people's property; is that correct?

4 A Yes, sir, I picked their pocket.

5 Q How many times did you do that?

6 A I did that a lot of times.

7 Q A lot of times. Can you approximate how many times?

8 A Again, I can't count like how much times I did it.

9 Q More than 50?

10 A No.

11 Q More than 20?

12 A I don't know, sir. I can't tell.

13 Q A lot of times pick pocketing and you got away with it?

14 A Yes, sir.

15 Q You were good at it?

16 A Yes, sir.

17 Q Pick pocketing is also something you want to be deceptive  
18 about, right?

19 A You don't talk to the person, so I don't understand what  
20 you mean by deceptive. You don't speak to nobody, you don't  
21 say a word to nobody. I come up, I take your money from out  
22 your pocket without you even knowing, without me saying boo to  
23 you.

24 Q If you make too much noise then they're going to hear  
25 that you're picking their pocket and they're going to try to

McQuilkin - cross - Dinnerstein

709

1 stop you, is that correct?

2 A It's not making no noise. Noise got nothing to do with  
3 picking pockets.

4 Q But if you're not good at picking pockets then the other  
5 person is going to find out about it, right?

6 A They're going to feel you going in their pocket.

7 Q So you have to be able to be very quiet in terms of  
8 getting into the pocket so that you could steal whatever you  
9 want to steal; is that correct?

10 A That's not true.

11 Q You can make a lot of noise?

12 A A lot of times that's what happens. I might make a lot  
13 of noise and the people watching me and the next person picks  
14 his pocket.

15 Q In other words you have a plan of how to go about picking  
16 people's pockets; is that correct?

17 A Basically.

18 Q And you worked with another person, right?

19 A Basically.

20 Q So one person makes noise, the other one goes around and  
21 tries to steal; is that correct?

22 A That sounds good.

23 Q Sir, you would acknowledge that stealing is illegal,  
24 right?

25 A It is illegal.

McQuilkin - cross - Dinnerstein

710

1 Q Taking something from somebody else is wrong, right?

2 A 100 percent right.

3 Q What?

4 A You're 100 percent right.

5 Q But that's the way you made your living for most of your  
6 life; isn't that correct?

7 A Most of my younger life.

8 Q Well, sir, you were selling illegal DVD's up until you  
9 got busted in 2006, right?

10 A I wasn't hurting nobody.

11 Q What?

12 A I wasn't hurting nobody selling DVD's.

13 Q You were violating somebody's copyright laws, right,  
14 somebody who made the movie, you didn't give him the money,  
15 right?

16 A You're right.

17 Q So somebody was being hurt, right?

18 A If you want to put it like that.

19 Q How would you put it?

20 A I don't see -- I feel hurt is when you hurt somebody  
21 physically, not like me selling.

22 Q You say you were stealing when were you pick pocketing?

23 A When I was younger I was pick pocketing.

24 Q How old were you when you were pick pocketing, sir?

25 A Eighteen, 19, 20.

McQuilkin - cross - Dinnerstein

711

1 Q What were you doing in 1995, 1997?

2 A Stealing clothes.

3 Q Stealing clothes. You stopped pick pocketing?

4 A Yes, sir.

5 Q And stealing clothes, was that okay?

6 A No.

7 Q Nobody was getting hurt?

8 A That was not right to steal clothes.

9 Q So the store was getting hurt, right?

10 A If you want to say that.

11 Q Well, it's not what I'm saying, what do you say, sir,  
12 wasn't the store getting hurt when you were stealing clothes?

13 A I don't see it as being hurt. Like I said, hurt is when  
14 you physically do something to somebody.

15 Q What?

16 A I said my definition of hurt is when you physically do  
17 something to somebody.

18 Q When you what?

19 A Physically do something to someone.

20 Q When you pick pocketed was somebody physically hurt?

21 A No.

22 Q So that was okay, too, then, right?

23 A I guess so.

24 Q Well, you think that was okay, right?

25 A At the time, yes.

McQuilkin - cross - Dinnerstein

712

1 Q How about now as you sit there, was it okay?

2 A Now I wouldn't have done it.

3 Q And stealing clothes, you said you did that a lot, right?

4 A Yeah.

5 Q And do you understand that when people steal clothes  
6 everybody has to pay more money for clothes because there's  
7 all that stolen clothes?

8 A I don't know about that.

9 Q You don't know?

10 A I don't know about that.

11 Q You think the store just isn't able to kind of slough off  
12 on the cost of theft?

13 A I don't know.

14 Q You don't know?

15 A No.

16 Q Now you also said you sold cocaine; is that right?

17 A Yes, sir.

18 Q What?

19 A Yes, sir.

20 Q And how often would you sell cocaine?

21 A Actually I wasn't selling it. Within the first week I  
22 got arrested.

23 Q For selling cocaine?

24 A Yes, ten dollars worth back in 1984.

25 Q You spent five and a half years in jail for ten dollars

McQuilkin - cross - Dinnerstein

713

1 worth of cocaine?

2 A Actually I got four to eight years for the robbery. For  
3 the sale of the ten dollars worth of cocaine, they gave me  
4 four and a half to nine years.

5 Q Those sentences ran concurrently with one another?

6 A Yes, sir.

7 Q In other words, after four and a half years you would  
8 have been eligible for parole?

9 A Right. I got hit with another year.

10 Q That's because you didn't behave as well in prison as you  
11 could have, right?

12 A It's not my decision.

13 Q That's right. You go to the parole board and they  
14 decided to hit you with another year, right?

15 A Yes.

16 Q After the five and a half years they sent you back to  
17 Trinidad, right?

18 A No, sir.

19 Q You got out?

20 A Yes.

21 Q How long were you out on the street before they sent you  
22 back to Trinidad?

23 A Till '97.

24 Q When did you get out on the street?

25 A When did I get out on the street?

McQuilkin - cross - Dinnerstein

714

1 Q Yeah.

2 A I don't understand you.

3 Q You were arrested what, 1990 for the robbery?

4 A That was back in the eighties. I got out of jail  
5 June 1990.

6 Q June 1990?

7 A Right.

8 Q So then you were on the street for seven years, right?

9 A Yes.

10 Q During that period of time your livelihood was selling  
11 clothes, right?

12 A Yes, and selling DVD's.

13 Q You sold DVD's in the 90's too?

14 A Yes.

15 Q You said, sir, on direct examination that you used many  
16 different names; is that correct?

17 A Yes, sir.

18 Q How many?

19 A I can't -- I don't know.

20 Q You don't have any idea?

21 A No.

22 Q More than ten?

23 A Possibly.

24 Q What would be the reason that you would lie to the  
25 authorities as to what your name was?

McQuilkin - cross - Dinnerstein

715

1 A I didn't want them to find out about Immigration.

2 Q In other words, you put your own self-interest ahead of  
3 telling the truth about what your name is; is that correct,  
4 sir?

5 A At that time, yes.

6 Q And then how many different dates of birth did you have?

7 A I don't know. As much as alias names I have, I use a  
8 different birth, different social security number.

9 Q You did that so that you could be successful?

10 A I did that so they won't find out about Immigration.

11 Q You have no idea how many different dates of birth you  
12 have, is that correct?

13 A No, sir.

14 Q You have no idea how many different social security  
15 numbers you used; is that correct?

16 A No, sir.

17 Q Now, sir, at one point you got deported and you went back  
18 to Trinidad; is that correct?

19 A Yes, sir.

20 Q That was about 1997?

21 A Yes, sir.

22 Q And I presume what happened before you got deported is  
23 that you got arrested; is that correct?

24 A Yes, for a warrant.

25 Q A warrant?

McQuilkin - cross - Dinnerstein

716

1 A Yes, sir.

2 Q Was that warrant -- a warrant is when you don't show up  
3 in court, right?

4 A Yes, sir.

5 Q And was that also under a phony name?

6 A Yes, sir.

7 Q And that was a warrant for the state court or for federal  
8 court?

9 A That was for Criminal Court.

10 Q Criminal Court -- was that in Brooklyn or in Manhattan or  
11 where?

12 A Brooklyn.

13 Q So when you got the warrant you came to court and there  
14 was some discussion that they knew that you were here  
15 illegally; is that correct?

16 A No. What happened is I got picked up on the street by  
17 the police because my picture was in the precinct wanted by  
18 Immigration.

19 They put my picture in the precinct. When I got  
20 picked up I told them that wasn't me, that's not who I am and  
21 they said, well, okay, we know you got a warrant. I told  
22 them -- as a matter of fact, I said I'm going to show you it's  
23 is not me, I got warrants.

24 Q In fact it was you, right?

25 A Yeah, it was.

McQuilkin - cross - Dinnerstein

717

1 Q So you looked the agent in the eye, the police officer in  
2 the eye, he showed a picture of you and you said, Oh, that's  
3 not me; is that what happened?

4 A Yes, sir.

5 Q That is because you intended to be deceptive to that  
6 officer; is that correct?

7 A I intended to hope that he would let me go without me  
8 going through the system.

9 Q Did you hear my question? You lied to that officer;  
10 isn't that correct, sir?

11 A Yeah, I lied to him.

12 Q Right. Because lying is okay, right?

13 A No, it's not.

14 Q Lying is okay if it's going to serve your interest, isn't  
15 that's correct, sir?

16 A At times.

17 Q But at that point in 1997 when you were trying to deceive  
18 the officer he caught you, right?

19 A Actually, he sent me through the system and the warrant  
20 popped up and I end up staying in Brooklyn House for like  
21 12 days. The judge dismissed all of the cases I had and  
22 Immigration was waiting outside the courtroom for me.

23 Q Immigration picked you up?

24 A Yes, sir.

25 Q Right?

McQuilkin - cross - Dinnerstein

718

1 A Yes, sir.

2 Q And you got sent back to Trinidad?

3 A Yes, sir.

4 Q When you Tied to the officers they were able to figure  
5 out who you actually were; isn't that correct, sir?

6 A Actually they didn't care. The judge didn't -- all the  
7 judge did was say, Immigration wants you. We dismissing all  
8 the case. When I walked out the courtroom, Immigration was  
9 right there and they arrested me.

10 Q They put you in federal custody, right?

11 A Yes, sir.

12 Q And then in federal custody you stayed there for awhile  
13 and then they sent you back to Trinidad, right?

14 A Actually, I stayed there for like two weeks.

15 Q Two weeks -- that's a while, okay. You stayed there for  
16 two weeks and they sent you back to Trinidad, right?

17 A Yes, sir.

18 Q In Trinidad -- you didn't like living in Trinidad, right?

19 A No, sir.

20 Q It was hard, right?

21 A Not really.

22 Q It was easy?

23 A I'm just accustomed to America. All my family is here.

24 Q So you didn't want to stay in Trinidad, right?

25 A Basically true.

McQuilkin - cross - Dinnerstein

719

1 Q And you stayed there for a number of years?

2 A Yes, sir.

3 Q And did you ever go to the U.S. embassy in Trinidad and  
4 say, Can I come back? My family's here in the United States?

5 A No, sir.

6 Q Why not?

7 A I just didn't. I figured they wouldn't let me come back.

8 Q So you figured you had to beat the system again; is that  
9 correct, sir?

10 A I figured I wanted to come back and I found a way, I  
11 stowed away and I came back.

12 Q Isn't it a fact that by stowing away that that is an act  
13 of deception?

14 A I don't know what you mean.

15 Q Do you know what the word "deception" means?

16 A No. Tell me.

17 Q You don't know what the word "deception" is?

18 A No.

19 Q When you tried to hide something, you hide the truth.

20 A I was --

21 Q -- you lied?

22 A How I lied by getting on the ship and coming in? How is  
23 that a lie?

24 Q You think being a stowaway and not having the approval or  
25 the consent of the U.S. Government is perfectly lawful?

McQuilkin - cross - Dinnerstein

720

1 A It's not lawful, but I didn't lie to nobody.

2 Q I see. So you just went on the boat, you hid on the boat  
3 and then when the boat came to Florida -- it came to Florida,  
4 right?

5 A Yeah.

6 Q You snuck off, right?

7 A Yes.

8 Q Do you think in any way that that is at least misleading  
9 people?

10 A Misleading who? Nobody was coming behind me. Misleading  
11 who?

12 Q You snuck into the country, right?

13 A Yes.

14 Q You knew you were not supposed to sneak into the country,  
15 right?

16 A Yes.

17 Q You knew that if the U.S. government found out that you  
18 were sneaking into the country they would send you back,  
19 right?

20 A Yes, sir.

21 Q Okay. So you didn't have a sign saying, I'm now coming  
22 illegally into the United States, did you?

23 A No, sir.

24 Q You didn't want to do that because you wanted to get into  
25 the United States, right?

McQuilkin - cross - Dinnerstein

721

1 A I didn't look at it that like that.

2 Q I understand you didn't look at it like that because what  
3 you looked at is how do I help me; isn't is that right?

4 A At that moment, yes.

5 Q So this was 2002 when you came back to the United States,  
6 right?

7 A Yes, sir.

8 Q You spent five years in Trinidad, right?

9 A Yes, sir.

10 Q Now, you claim, sir, that you witnessed a murder in 2003  
11 in the 71th Precinct, right?

12 A I didn't claim.

13 Q You witnessed a murder, right?

14 A Yes, sir.

15 Q Well, in fact you did claim it because you didn't tell  
16 anybody about it until you got in trouble, right?

17 A Yes, sir.

18 Q You never testified regarding that murder; is that  
19 correct?

20 A No, sir.

21 Q And then you also say that you witnessed the a murder in  
22 May of 2004, right?

23 A I did see it.

24 Q I just said that, I said you say that you saw it, right?

25 A I'm telling you I saw it.

McQuilkin - cross - Dinnerstein

722

1 Q And of course -- you didn't go to the police because  
2 you're afraid of Immigration, right?

3 A Yes, sir.

4 Q And you claim that you saw the murderers on a bicycle; is  
5 that correct?

6 A I didn't claim. I saw it.

7 Q You saw murderers on a bicycle, right?

8 A I seen him and Lindsey.

9 Q I know what you're saying, sir. Now, you saw them after  
10 the murder on the bicycles?

11 A No, sir.

12 Q When did you see them on the bicycles?

13 A After they told Belize, Didn't I tell you to stop selling  
14 fuckin' weed on this block?

15 Q Who said this, Lindsey or did Birdman say it?

16 A Both of them.

17 Q By the way, how big is Lindsey?

18 A He's probably about 5-foot-8, 5-foot-9.

19 Q He's a little guy, isn't he?

20 A He's much taller than him.

21 Q Really? How tall is Devon?

22 A Devon?

23 Q Devon?

24 A Devon is like probably about six-foot or five-eleven.

25 Q Six-foot?

McQuilkin - cross - Dinnerstein

723

1 A Or five-eleven. I don't know exactly.

2 Q Devon is much taller, much bigger, right?

3 A Yes, sir.

4 Q Now, sir, Government Exhibit 468. You said, sir, that  
5 you went into the barbershop to sell your DVD's on the night  
6 of the murder; is that right?

7 A Yes, sir.

8 Q By the way, do you have a nickname called Tall Man?

9 A Tall Man?

10 Q Does anybody call you Tall Man?

11 A No.

12 Q You know the people that work in the barbershop, right?

13 A Yes, sir.

14 Q One man's name is Deon, right?

15 A Yes.

16 Q You know somebody whose nickname is China?

17 A China?

18 Q Yes.

19 A No.

20 Q How many bashers are there in the barbershop?

21 A Yeah, Chinese, Chinese worked there, yeah.

22 Q Anybody else?

23 A Swiddle.

24 Q What?

25 A Swiddle.

McQuilkin - cross - Dinnerstein

724

1 Q Do you know whether those people after the murder called  
2 the police?

3 A I have no idea.

4 Q Do you know that those people when they testified --  
5 wait. You said you went into the barbershop to sell DVD's; is  
6 that correct?

7 A Yes, sir.

8 Q And this was before the murder occurred, right?

9 A Yes, sir.

10 Q And you talked to the people in the barbershop, right?

11 A I asked them if they want to buy DVD's.

12 Q How long were you in the barbershop for?

13 A About 10, 15 minutes.

14 Q Ten or 15 minutes. And did you speak to each of the  
15 barbers during that 10 or 15 minutes about buying DVD's?

16 A I asked them if anybody want DVD's and then you go around  
17 to other people, some people look at it, some people tell you  
18 no.

19 Q So you went to all the people in the barbershop to find  
20 out whether or not they would want DVD's?

21 A Basically.

22 Q Did you sell any DVD's while you were inside the  
23 barbershop?

24 A That day, no.

25 Q Isn't it a fact, sir, that -- withdrawn.

McQuilkin - cross - Dinnerstein

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1           Do you know that the barbers came into this  
2 courtroom and testified?

3 A    I don't know who came in this courtroom, sir.

4 Q    Do you know that none of the barbers said that they saw  
5 you on the night of the murder?

6           MR. DuCHARME: Objection.

7           THE COURT: Sustained.

8 A    I don't know if --

9           THE COURT: I said sustained. Don't answer. It  
10 doesn't matter.

11 Q    You say, sir, you were in the barbershop 10 or  
12 15 minutes, right?

13 A    Yes, sir.

14 Q    And you say you were talking to everybody in the  
15 barbershop, right?

16 A    Basically, yeah.

17 Q    And you've been in that barbershop lots of times before;  
18 is that correct?

19 A    Yes, sir.

20 Q    Now, sir, isn't that all just a lie?

21 A    No, sir, it's not no lie.

22 Q    You were not in the barbershop on May 26, 2004 when the  
23 murder occurred, were you?

24 A    100 percent right I was there.

25 Q    You're saying this now, sir, because you see it as the

McQuilkin - cross - Dinnerstein

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1 way of trying to get out from under, isn't that correct?

2 A That's not true.

3 Q You are 47-years-old, sir; you could be deported back to  
4 Trinidad and now by saying you saw a crime you could help the  
5 government, right?

6 A No. By telling the truth.

7 Q Sir, the truth is decided by the government, right?

8 A I thought the truth is decided by the jury.

9 Q No.

10 MR. DuCHARME: Objection.

11 THE COURT: Let's not have this. The jury  
12 understands how the process works. Letters are written by the  
13 government to the court.

14 MR. DINNERSTEIN: The government writes the  
15 letter --

16 THE COURT: One second.

17 If the government is satisfied with his cooperation  
18 they have the right to send a letter to the court for my  
19 consideration. I think the jury understands all that.

20 I'm not meaning to cut you short but you're going  
21 over things that the jury is fully aware of.

22 MR. DINNERSTEIN: Right. I'll move on.

23 Q If the government writes the letter, that gives you a  
24 hope of getting freedom, isn't that correct, sir?

25 A Yes, sir.

McQuilkin - cross - Dinnerstein

727

1 Q If the government doesn't write the letter you do not  
2 have any chance of freedom; isn't that correct, sir?

3 A Yes, sir.

4 Q Now, sir, you told the ladies and gentlemen of the jury  
5 on direct examination that you drink alcohol; is that correct?

6 A Yes, sir.

7 Q How often do you drink alcohol?

8 A Two times, three times a week.

9 Q And how do you pay for the alcohol you drink?

10 A Pay that with money.

11 Q What?

12 A Pay it with money.

13 Q And how much money would you spend drinking alcohol on a  
14 weekly basis?

15 A Weekly basis?

16 Q Yes.

17 A About nine, ten dollars.

18 Q What?

19 A About nine or ten dollars.

20 Q And you also say you smoke marijuana; is that correct?

21 A Yes, sir.

22 Q How often would you smoke marijuana -- how often would  
23 you smoke marijuana?

24 A Sometimes five times a week, sometimes six times a week,  
25 sometimes two times a day.

McQuilkin - cross - Dinnerstein

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1 Q Two times a day. When you bought marijuana, how much did  
2 you spend?

3 A How much I spent?

4 Q Yes.

5 A Sometimes I spent ten colors, sometimes I spend twenty  
6 dollars.

7 Q How much would you say you spent per week?

8 A It gives and takes.

9 Q Approximately how much money would you spend smoking  
10 marijuana?

11 A About 50, \$60.

12 Q Fifty, \$60 would only get you about a half an ounce a  
13 week, right?

14 A If you add it up, 50 or \$60, that's like six bags, \$10  
15 bags.

16 Q And you would be buying dime bags, right?

17 A Yes, sir.

18 Q So sometimes you'd buy dime bags twice a day, right?

19 A Yes, sir.

20 Q Sometimes you'd buy dime bags three times a week, right?

21 A Sometimes, three times. I don't count like, okay, I  
22 bought weed last week six times, the week before that I bought  
23 it four times.

24 Q So you didn't buy marijuana on a daily basis?

25 A Basically, more times I did buy it on a daily basis. If

McQuilkin - cross - Dinnerstein

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1 I'm buying -- buying at least \$60 worth of weed, I was just  
2 averaging like a bag a day.

3 Q So you'd buy one dime bag a day, right?

4 A Sometimes.

5 Q And you said that some of the times you'd buy marijuana  
6 from Mr. Praddy, correct, the gentleman sitting over there?

7 A Yes, sir.

8 Q How many times?

9 A Again, I can't count like every time I bought a bag of  
10 weed from him I went and wrote it down, sir.

11 Q You tried to count on direct examination.

12 A I know within the circle, I bought weed hundreds of  
13 times.

14 Q Hundreds of times?

15 A Yeah.

16 Q How many hundreds?

17 A What?

18 Q How many hundreds?

19 A I can't count but I know if you add it up, I buying weed  
20 three times a week.

21 Q How many hundred, sir? You said hundreds on direct  
22 examination. What do you mean by that?

23 A Hundreds of different times. I'm just showing you an  
24 example. If I bought, say six bags a week -- a week for 24  
25 bags a month.

McQuilkin - cross - Dinnerstein

730

1 Q Okay?

2 A We're talking about a period of time from 2002 till, say,  
3 2006. That's a lot of times.

4 Q So that would be, if you bought 24 bags a month, we're  
5 talking 2,500 bags a year, right -- 250 bags a year, right?

6 A If that's what it add up to.

7 Q We'll say 250 bags. You would spend \$2,500 on your  
8 marijuana habit; is that correct, because you were buying dime  
9 bags?

10 A Basically. I never added it up at the end of the year  
11 how much I spent.

12 Q You said on a good day selling DVD's you'd make a hundred  
13 bucks a day, right?

14 A Yes, sir.

15 Q Sometimes you'd make even less than that, right?

16 A Yes.

17 Q How much would you make in a year?

18 THE COURT: Let me interrupt? Anybody need to use  
19 the facilities like I do?

20 Do you want to take a break now?

21 How much more do you think you'll have?

22 MR. DINNERSTEIN: It will be a little while.

23 THE COURT: Let's take our break now then and we'll  
24 finish the cross-examination.

25 (Recess.)

McQuilkin - cross - Dinnerstein

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1 (The following occurred in the absence of the jury.)

2 THE COURT: Seat the jury, please.

3 THE CLERK: Yes, Your Honor.

4 (Witness present.)

5 MR. GOLDSMITH: Your Honor, the witness who we would  
6 like to call after Mr. McQuilkin we very much would like to  
7 call today, just because of his own scheduling with his work.

8 THE COURT: Let's see what we can do. I don't know  
9 how much more we have. How much more do you have,  
10 Mr. Dinnerstein?

11 MR. DINNERSTEIN: Probably an hour.

12 MR. GOLDSMITH: This next witness, Your Honor, will  
13 be 25 minutes maybe. That's why I mentioned it.

14 THE COURT: If we do that, we are not going to be  
15 able to finish the cross here today. It is up to you. Do you  
16 want to work it out amongst yourselves?

17 MR. GOLDSMITH: Let's see where we are in a little  
18 bit, Your Honor.

19 THE COURT: I don't want to interrupt cross here.

20 (Continued on next page.)

21

22

23

24

25

McQuilkin - cross - Dinnerstein

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1 (Jury present.)

2 THE COURT: Let's continue with the  
3 cross-examination.

4 MR. DINNERSTEIN: Thank you.

5 EXAMINATION CONTINUES

6 BY MR. DINNERSTEIN:

7 Q After you spoke to Immigration in June of 2006, there  
8 came a time that you spoke to a couple of New York City  
9 detectives, police detectives, about this case, is that  
10 correct?

11 A Yes, sir.

12 Q Do you know the names of the detectives you spoke to?

13 A Terry and Joe.

14 Q You have to --

15 A Terry and Joe.

16 Q What?

17 A Terry and Joe.

18 Q Do you know what their last names are?

19 Could it be Leto and Calabrese?

20 A Yes.

21 Q Do you remember you spoke to them in August, right?

22 A Yes, sir.

23 Q You spoke to them in August about the homicide that  
24 you -- that you say occurred in May of 2004, right?

25 A Yes, sir.

McQuilkin - cross - Dinnerstein

733

1 Q Now, the --

2 THE COURT: Move the microphone closer. This is  
3 hopeless. Turn it around like that. Now lean back. Say  
4 "yes, sir" again.

5 THE WITNESS: Yes, sir.

6 THE COURT: Keep it up that way.

7 Q This is after you were arrested by Immigration --  
8 arrested and were in federal custody, is that correct?

9 A Yes, sir.

10 Q Now, you were asked questions about -- what do you call  
11 them, terry and Joe?

12 A Terry and Joe.

13 Q Okay. You were asked questions about the homicide that  
14 occurred on Church Avenue about two years before, a little  
15 over two years before, right?

16 A Yes, sir.

17 Q And you were asked about whether or not you had seen  
18 people approach Belize on the day before the homicide, is that  
19 correct?

20 A Say that again, sir.

21 Q You were asked questions about -- or you volunteered that  
22 you had seen people approach Belize the day before the  
23 homicide, is that correct?

24 A No, that's not correct.

25 Q Did you tell them -- did you tell the officers that

McQuilkin - cross - Dinnerstein

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1 someone approached Belize before the murder in the candy  
2 store?

3 A I didn't tell them that.

4 Q Well, do you remember testifying today and saying that  
5 you saw the people -- that you saw two people approach Belize  
6 a day or two before the murder?

7 A I didn't testify to that today.

8 Q You didn't say that?

9 A No.

10 Q Before the murder, at any time prior to the murder, on a  
11 different day, did somebody approach Belize in the candy  
12 store?

13 A It wasn't in the candy store, no.

14 Q Okay. Where was it, sir, where they approached him?

15 A Outside the store.

16 Q Outside the candy -- outside the candy store?

17 A Not directly in front of the candy store. But in the  
18 vicinity of it.

19 Q Who did you see approach Belize -- was that a few days  
20 before the murder?

21 A No, sir. It was --

22 Q How long before the murder?

23 A It was in the springtime.

24 Q So it was many -- well, isn't May the springtime?

25 A Yeah.

McQuilkin - cross - Dinnerstein

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1 Q So when was it that you saw these people approach Belize  
2 before the murder?

3 A Like about two months before.

4 Q Do you remember bringing up this entire conversation with  
5 detectives Leto and Calabrese or Terry and Joe, as you know  
6 them by?

7 A No, I did not.

8 Q Are you sure?

9 A Yes, sir, I am.

10 Q Can I show you a piece of paper and see if it refreshes  
11 your recollection?

12 A Yes, sir.

13 Q This is HM-4.

14 This paragraph.

15 A What?

16 Q This paragraph.

17 Read it to yourself, sir. Don't read it out loud.

18 (Pause.)

19 A Yes. This don't have nothing to do with what you just  
20 asked me, the paragraph you told me to read.

21 Q Well, sir, didn't you say, sir, that the day before the  
22 murder you saw this confrontation between Belize and two other  
23 people?

24 A I did not say that, sir.

25 Q Well, are you looking at the piece of paper, sir?

McQuilkin - cross - Dinnerstein

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1 A This paper don't say that at all.

2 Q Isn't there an indication that the day before the murder  
3 that Devon and Lindsey approached Belize and he had a  
4 confrontation with them?

5 MR. DuCHARME: Objection.

6 THE COURT: Do you know that of your own fact? When  
7 you look at that piece of paper, does that help you remember  
8 that?

9 THE WITNESS: It's not even on here, what he is  
10 talking about.

11 THE COURT: It doesn't?

12 THE WITNESS: No.

13 THE COURT: You can read okay?

14 THE WITNESS: Very well.

15 THE COURT: Do you want him to read that? Is that  
16 what you want him to do?

17 MR. DuCHARME: Objection.

18 THE COURT: It's not in evidence.

19 You read it. You let me know whether you want him  
20 to read it again.

21 MR. DINNERSTEIN: Okay.

22 Q This paragraph, sir, can you read the second and third  
23 lines out loud?

24 MR. DuCHARME: Objection, Your Honor.

25 THE COURT: No. It's not in evidence.

McQuilkin - cross - Dinnerstein

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1 MR. DINNERSTEIN: Okay.

2 Q Did you, sir, tell detectives Leto and Calabrese, Terry  
3 and Joe, that the day before the homicide you saw Devon and  
4 Lindsey have a confrontation with Belize?

5 THE COURT: Did you tell the detective that, yes or  
6 no?

7 THE WITNESS: No.

8 Q Did you tell the detectives that?

9 A No. I don't remember telling them that.

10 THE COURT: Does that refresh your recollection when  
11 you look at that piece of paper?

12 THE WITNESS: No, sir, it don't.

13 Q It doesn't refresh your recollection?

14 THE COURT: That's your answer.

15 Q Let me have the paper back.

16 Did you tell Calabrese and Leto, Terry and Joe,  
17 anything about what you had seen the day before the homicide?

18 A I don't recall.

19 Q Does this piece of paper refresh your recollection as to  
20 whether or not you had a conversation with them?

21 A No, it does not.

22 Q Doesn't refresh your recollection?

23 A No.

24 Q Did you tell Terry and Joe about the homicide?

25 A Yes, I did.

McQuilkin - cross - Dinnerstein

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1 Q What else did you tell them?

2 A I told them about other people shooting.

3 Q Did you tell them about a confrontation that occurred the  
4 day before?

5 A I don't recall telling them.

6 Q That piece of paper doesn't refresh your recollection?

7 A No, sir.

8 Q Do you remember on direct examination talking about a  
9 confrontation before the actual killing on May 26th?

10 A Yes, sir.

11 Q What was the confrontation?

12 A I told them that Devon, I seen Devon and Birdman tell  
13 Belize yo, man, I don't want you selling weed on --

14 THE COURT: You don't want what?

15 THE WITNESS: No weed on the spot.

16 THE COURT: Weed?

17 THE WITNESS: Yes.

18 Q When was that confrontation -- that conversation?

19 A A couple of months before.

20 Q Not the day before?

21 A Not the day before.

22 Q It wasn't that it was Devon and Lindsey who had that  
23 conversation with Belize?

24 A It was Devon and Birdman.

25 Q That's what you told the officers, right?

McQuilkin - cross - Dinnerstein

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1 A That's what I recall telling them.

2 Q Right.

3 So if they wrote down something else, they made a  
4 mistake, right?

5 A They made a mistake? I don't know. I didn't write  
6 nothing down.

7 Q Now, at some point you started talking to Agent Foy, is  
8 that correct?

9 A Yes, sir.

10 Q When was the first time you spoke to Agent Foy?

11 A I think August of 2007.

12 Q 2007?

13 A 2006.

14 Q So that would be around the same time you were speaking  
15 to Terry and Joe, right?

16 A A couple of months after.

17 Q You also talked about the murder, is that correct?

18 A Yes, sir.

19 Q Did you talk about who you saw have a confrontation  
20 sometime prior to the murder?

21 A I don't recall. I can't remember.

22 Q Do you recall talking about how the perpetrators of the  
23 murder rode off on bicycles afterwards?

24 A I don't remember saying that. I said, before he killed  
25 Belize, him and Lindsey rode off on the bike.

McQuilkin - cross - Dinnerstein

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1 Q We heard what you said before, sir.

2                 The question is, did you tell Agent Foy that after  
3 the murder the perpetrators rode off on bicycles?

4 A I don't remember.

5 Q Do you want to take a look at this piece of paper, the  
6 first paragraph on page three of HM-11, and tell me if this  
7 refreshes your recollection about what you -- the conversation  
8 was that you had with Agent Foy?

9                 (Pause.)

10                THE COURT: The first paragraph, does it refresh  
11 your recollection that you had any conversation at all with  
12 Agent Foy?

13                THE WITNESS: I had conversation --

14                THE COURT: Answer my question. Does it refresh  
15 your recollection that you had a conversation with Agent Foy  
16 when you read that first paragraph, yes or no?

17                THE WITNESS: Yes. But it's not correct.

18                THE COURT: I didn't ask you that question. It  
19 refreshes your recollection that you had a conversation,  
20 right?

21                THE WITNESS: Yes, sir.

22                THE COURT: All right. Do you want to know what the  
23 conversation is now that he recalls?

24 Q So Agent Foy wrote down things wrong in the conversation  
25 that you had with him, is that your testimony, sir?

McQuilkin - cross - Dinnerstein

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1 A I don't know. I don't know what he wrote down or how he  
2 write down. I know what I told him.

3 Q So you didn't tell him what's on this piece of paper,  
4 right?

5 THE COURT: Look.

6 A Basically the --

7 THE COURT: Just stop.

8 We can get a little confused here. You probably,  
9 members of the jury, are probably curious to read all these  
10 documents that are not in evidence. I guess that's kind of a  
11 natural response, natural instinct. There are Rules of  
12 Evidence which I have to apply and you can't read that  
13 document because it doesn't square with the Rules of Evidence.  
14 Don't speculate why.

15 There may be other ways in which you can bring out  
16 information but you can't do it in this way. So if it  
17 refreshes his recollection, then he can say yes and then you  
18 can go ahead and with his recollection refreshed he can then  
19 testify.

20 But you can't say that here is what it says. That's  
21 not permissible. It may be frustrating but that's just the  
22 rules of the game.

23 Okay. Go ahead, Mr. Dinnerstein.

24

25

McQuilkin - cross - Dinnerstein

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1 EXAMINATION CONTINUES

2 BY MR. DINNERSTEIN:

3 Q Do you remember what you said to Agent Foy about a  
4 bicycle?

5 A Yes.

6 Q What did you say to Agent Foy about a bicycle?

7 A I said, they left on a bicycle. I didn't say they came  
8 back on a bicycle. Maybe he wrote that down.

9 THE COURT: We don't know what he wrote down.

10 Anyway, it says that you did not -- you said you left on a  
11 bicycle?

12 THE WITNESS: They left on a bicycle.

13 THE COURT: There is nothing else in that paper that  
14 you read which jogs your recollection about whether they came  
15 back?

16 THE WITNESS: They didn't come back.

17 THE COURT: You didn't need your recollection  
18 refreshed? You know that?

19 THE WITNESS: Yes, sir.

20 THE COURT: You are testifying under oath, you know  
21 that?

22 THE WITNESS: Yes, sir.

23 THE COURT: Next question.

24 Q Do you know how long Agent Foy has been an agent for the  
25 FBI?

McQuilkin - cross - Dinnerstein

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1                   THE COURT: Sustained.

2 A     Do I know how long?

3                   THE COURT: When I say sustained, that means you  
4 don't answer the question.

5                   THE WITNESS: Oh, okay.

6 Q     Do you know if it is important for Agent Foy to write  
7 things down?

8                   THE COURT: Sustained.

9 Q     The way you say them?

10                  THE COURT: Sustained.

11                  Don't answer the question.

12 Q     You have spoken to Agent Foy hundreds of times, is that  
13 your testimony, sir?

14 A     Yes, sir.

15 Q     It would be fair to say you have spoken to him for  
16 several hundred hours, is that correct?

17 A     I don't know. I don't know. I can't answer that.

18 Q     Agent Foy has given you some amount of money over the  
19 years, is that correct?

20 A     Yes.

21                  THE COURT: I think we have covered all of that,  
22 haven't we?

23                  THE WITNESS: Yes.

24                  THE COURT: It's getting --

25 Q     Do you ever --

McQuilkin - cross - Dinnerstein

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1           THE COURT: Excuse me. I am not interrupting too  
2 often. Once in a while I do, especially when it gets to the  
3 end of the day.

4           Try not to be repetition of things that have already  
5 been explored at length.

6 Q       Do you have any other job, sir?

7           THE COURT: Any other job?

8 A       No, not right now.

9 Q       So --

10          THE COURT: Did you ever have any other job over the  
11 last several years?

12          THE WITNESS: Yes, sir.

13          THE COURT: Okay. Next question.

14 Q       Now, in June of 2007, you got out of jail, is that  
15 correct?

16 A       Yes, sir.

17 Q       It was the government helped you get out of jail, is that  
18 right?

19 A       Yes, sir.

20 Q       The government put aside the illegal reentry, is that  
21 correct?

22 A       Yes, sir.

23 Q       And the fact that you had been previously deported, is  
24 that correct?

25 A       Yes, sir.

McQuilkin - cross - Dinnerstein

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1 Q And that you snuck back into the country as a stowaway,  
2 is that correct?

3 THE COURT: We are getting repetitious.

4 Next question.

5 MR. DINNERSTEIN: I will move on, Judge.

6 Q You were given an opportunity to be out on the street, is  
7 that correct?

8 A Yes, sir.

9 Q You went back out on the street after you pled guilty to  
10 where the minimum sentence is ten years in jail, right?

11 A Yes, sir.

12 Q Sir, you are hoping to get much less than ten years,  
13 isn't --

14 THE COURT: He's already testified about that,  
15 Mr. Dinnerstein. He's already said yes.

16 Go ahead.

17 Q Now, sir, the murder in 2004 on Church Avenue received a  
18 good deal of publicity, isn't that correct?

19 A In the neighborhood. I don't know as far as TV --

20 THE COURT: In the neighborhood. It was known in  
21 the neighborhood?

22 THE WITNESS: Yes.

23 Q People were talking about the murder, right?

24 A Yeah. Like somebody get killed around your way, it is  
25 going to be spoke about.

McQuilkin - cross - Dinnerstein

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1 Q You claim, sir, that you had information about the  
2 murder, right?

3 A I didn't claim nothing. I had information about it.

4 Q Of course, you told people about the murder that the  
5 police wanted to solve back in 2004, is that correct?

6 A I mean, I told people like shit, Birdman and Lindsey  
7 killed Belize.

8 Q Right.

9 You told the police that, right?

10 A Yeah.

11 Q You didn't tell the police that until years after you  
12 were arrested, isn't that correct, sir?

13 A I just -- I told you that the same thing earlier, yes.

14 Q After you got out of jail in June of 2007, you continued  
15 to have meetings with the government, is that correct?

16 A Yes, sir.

17 Q And you bought some marijuana, right?

18 A And crack cocaine.

19 Q Right?

20 A Yes, sir.

21 Q You didn't buy any cocaine from Mr. Praddy, did you?

22 A No, sir.

23 Q Of course, you were working on a lot of different cases  
24 at that point, right?

25 A Yes, sir.

McQuilkin - cross - Dinnerstein

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1 Q You have testified in a lot of different cases for the  
2 government?

3 A Yes, sir.

4 Q How many?

5 A Two.

6 Q This is the third time you have testified?

7 A Yes, sir.

8 Q In this case -- I am not talking about the other  
9 cases -- but the first time you were wired in this case by  
10 Agent Foy was in August of 2007, is that correct?

11 A Maybe. I don't know. I can't -- I don't know the exact  
12 date.

13 Q Did there come a time that you were looking for somebody  
14 named -- that you called Killer?

15 You were looking for Killer?

16 A Yes.

17 Q Okay. Killer was a guy who wanted to talk to you about  
18 committing -- getting somebody to commit a murder, is that  
19 correct?

20 A That's not correct.

21 Q Well, what is correct about Killer?

22 A Killer is a person that I was trying to get to buy  
23 cocaine from. If you want to know what you're speaking about,  
24 the person name is Rudy.

25 Q Rudy? Rudy wanted to commit -- wanted to hire you to

McQuilkin - cross - Dinnerstein

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1 commit a murder?

2 A Yes.

3 Q And you went out on some day to look for Rudy or for  
4 Killer?

5 A To look for Rudy wearing a wire because when he told me  
6 that I went and informed the FBI what he said to me. So we  
7 was trying to see if he wanted to go along with it but he  
8 never wanted -- he just -- he said the dude went to Jamaica  
9 and they handled it in Jamaica. It wasn't like I'm the killer  
10 because he told me and I went straight and told the FBI,  
11 started wearing a wire, and tried to get him to say things and  
12 make a meeting. But it never expanded to nothing.

13 Q Why would Rudy ask you if you knew anybody who could  
14 commit a murder?

15 A You got to ask him that.

16 Q Are you a person who is known on the street as somebody  
17 who knows about getting people to commit murders?

18 A No.

19 Q So he just kind of asked you out of the blue, right?

20 A I ain't got no control about a person asking me a  
21 question. It has nothing to do with me.

22 MR. DINNERSTEIN: Mike, we are going --

23 THE CLERK: Do you want the laptop?

24 Q Before running into Rudy, you actually ran into  
25 Mr. Praddy over there, is that correct?

McQuilkin - cross - Dinnerstein

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1 A On that day, yes, it is.

2 Q That would be August 24th of 2007, or you don't remember?

3 A I don't remember exactly what day it was.

4 MR. DINNERSTEIN: Would the government stipulate  
5 that it was August 24?

6 MR. DuCHARME: That appears to be what the tape  
7 shows.

8 MR. DINNERSTEIN: It will take a second to boot up.

9 MR. DuCHARME: What exhibit are you playing?

10 MR. DINNERSTEIN: This is defense Exhibit C. I'm  
11 sorry.

12 THE COURT: What are you referring to now?

13 Q I am going to show you about the time that you ran into  
14 Mr. Praddy.

15 A I had never ran into him.

16 Q I heard you.

17 A Yes.

18 (Tape plays; tape stops.)

19 Q Now, right there you had a conversation with Mr. Praddy,  
20 is that correct?

21 A Yes, sir.

22 Q And you brought up this person Kion, right?

23 A Yes, sir.

24 Q You just brought it up so you'd talk about him, right?

25 A Yes, sir.

McQuilkin - cross - Dinnerstein

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1           Actually, on the -- on that date, I was going to see  
2 Rudy. I --

3 Q       We understand that.

4 A       I asked him what's up with Kion. That's his friend.  
5 What's wrong with that?

6 Q       I didn't say anything was wrong. I am just asking what  
7 you did, sir.

8           (Tape plays; tape stops.)

9 Q       You saw Anthony was looking around in the shelves, is  
10 that correct?

11 A      I seen him looking.

12 Q      Did you see that?

13 A      Yes, I just seen him looking, yes.

14 Q      He was looking to purchase something, is that correct?

15 A      I don't know what he was doing at that moment. It's  
16 right there.

17 Q      What?

18 A      I don't know what he was doing, what he was looking for,  
19 if he was buying something.

20 Q      He went into the store, right?

21 A      He always in the store.

22 Q      You go into the store to go shopping, right?

23 A      He was selling marijuana out of that shop too.

24           (Tape plays; tape stops.)

25 Q      That's you talking, right?

McQuilkin - cross - Dinnerstein

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1 A Yes, it is.

2 Q Okay. The way you talk out on the street is a little  
3 different from the way you talk in this courtroom, isn't that  
4 correct, sir?

5 A Why would I be cursing in front of these people, for  
6 what?

7 Q Why do you curse when you are out there on the street,  
8 sir?

9 A That's -- that's street talk. That's how --

10 Q Do you hear Anthony cursing?

11 A I ain't hear him curse just now but he curse. You tell  
12 me he don't curse?

13 (Tape plays; tape stops.)

14 Q Okay. So you saw Anthony in the store, right?

15 A Yes.

16 Q You had a conversation with him, right?

17 A Yes.

18 Q You didn't talk about drugs or getting food or anything  
19 like that, right?

20 A Not that day.

21 (Continued on next page.)

22

23

24

25

*McQuilkin - cross/ Dinnerstein*

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1 CROSS EXAMINATION (Cont'd)

2 BY MR. DINNERSTEIN:

3 Q And you didn't know what he was doing in the store,  
4 right?

5 A I wasn't paying him no mind what he was doing.

6 Q Because you were looking for Rudy?

7 (Tape played); (Tape stopped)

8 Were you looking for somebody else; is that correct?

9 A Rudy.

10 Q Okay. This is Rudy, right?

11 (Tape played); (Tape stopped)

12 A Yes, that's Rudy.

13 Q And the one who is doing the talking at this point is  
14 you, right, I'm a call you man, that's you, right?

15 A I was calling him.

16 Q That's what you're saying to him at that time?

17 A Yes.

18 (Tape played); (Tape stopped)

19 Q Now, Rudy's writing a phone number down for you; is that  
20 is correct?

21 A Yes.

22 Q Whose phone number is he writing down?

23 A His cell phone.

24 Q He gave it to you?

25 (Tape played); (Tape stopped).

*McQuilkin - cross/ Dinnerstein*

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1 A Yeah, yes.

2 Q And that's the talk about the murder, right?

3 A About which murder?

4 Q The murder that Rudy wanted you to get involved with,  
5 right?

6 A Yes.

7 Q And you were playing along, right?

8 A I went and told the FBI agent.

9 Q I understand?

10 A I wasn't playing.

11 Q You were playing along with what Rudy, he was telling  
12 you?

13 A He -- he was really trying to hurt somebody. If  
14 anything, I was being a good citizen by going to the FBI.

15 (Tape played); (Tape stopped)

16 Q Just to speed things up, so you talked to Rudy for a  
17 couple of minutes, right?

18 A Yes, we spoke for a couple of minutes.

19 Q You were talking about Rudy wanting to get your help in  
20 terms of killing somebody; is that correct?

21 A Yes, sir.

22 Q Now, at some point you called the agents, right?

23 (Tape played); (Tape stopped)

24 At this point you are walking on Raleigh Place; is  
25 that correct?

*McQuilkin - cross/ Dinnerstein*

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1 A No.

2 Q What street are you walking on?

3 A That's New York Avenue.

4 Q You are walking on New York Avenue?

5 A Yes.

6 (Tape continued)

7 Q Now, who is Rob?

8 A Who is?

9 Q Rob, you said: What's up, Rob. Who is Rob?

10 A Rob is the FBI agent.

11 Q What is his last name, do you know?

12 A Foy.

13 Q And you're on a first name basis with the Agent in this  
14 case?

15 A I call him Rob. Sometimes call him Mr. Foy, sometimes.

16 (Tape played); (Tape stopped)

17 Q Now, sir, when you said I'm not scared, what does that  
18 mean? You're having a conversation with the guy who wants to  
19 hire you as a killer, or be involved in a kill, and you're not  
20 scared; is that your testimony, sir?

21 A That conversation had nothing to do with Rudy.

22 Q Well, what are you not scared about, sir?

23 A What I am not scared about, he tell me to be careful out  
24 there. I said I'm not scared.

25 Q Pardon.

*McQuilkin - cross/ Dinnerstein*

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1 A I told him I am not scared. It had nothing to do with  
2 being scared of Rudy. He said be careful. I said you know I  
3 am not scared.

4 Q You are not scared of anybody, right?

5 A What do you mean I am not scared of anybody?

6 Q Were you scared of people?

7 A I don't know what situation you mean.

8 Q When you were on that tape talking to Agent Foy you said:  
9 I am not scared, right?

10 A Yeah.

11 Q Isn't that what you said?

12 A Yes, sir.

13 Q Okay. And that's because you felt you're not scared,  
14 right?

15 A At that moment, yes.

16 Q What?

17 A At that moment, yes.

18 (Tape played); (Tape stopped)

19 Q Now, you're going back at that point to see Agent Foy; is  
20 that correct?

21 A I am not too sure.

22 Q Well, eventually you have to get unwired; isn't that  
23 right?

24 A Yes, sir.

25 Q So after you did what did you on August 24th, you needed

*McQuilkin - cross/ Dinnerstein*

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1 to get unwired; is that right?

2 A Yes, sir.

3 MR. DINNERSTEIN: May I have a conversation

4 Mr. Goldsmith?

5 (Mr. Dinnerstein and Mr. Goldsmith conferred)

6 Q Now, each time you were wired; is that correct?

7 A Yes, sir.

8 Q Now, before you went out you have received instructions;  
9 is that correct?

10 A Yes, sir.

11 Q Now, did you ever receive instructions about bringing up  
12 the murder that you say Birdman was involved in?

13 A No.

14 Q You were never asked by Agent Foy or any of these other  
15 agents to talk about the murder that had occurred some three  
16 years before; is that correct?

17 A Yes.

18 Q And you never brought that up, right?

19 A No, sir.

20 Q You spoke with Birdman, with Mr. Praddy, several times;  
21 is that correct?

22 A Yes, sir.

23 Q And even on one occasion he took you to his source where  
24 he got the marijuana; is that correct?

25 A Yes, sir.

*McQuilkin - cross/ Dinnerstein*

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1 Q Often -- the first time on October 16th you didn't have a  
2 phone up for Mr. Praddy; is that correct?

3 A Yes, sir.

4 Q So you didn't know exactly where he would be; is that  
5 correct?

6 A Yes, sir.

7 Q But you saw him on Church Avenue; is that correct?

8 A Yes, sir.

9 Q And when you saw him you did not just purchase marijuana  
10 from him out there on the street on Church Avenue; isn't that  
11 correct, sir?

12 A On what date?

13 Q The first day.

14 A When I seen him -- when I was going to meet Rudy.

15 Q On October 16th when you first saw him?

16 A First time.

17 Q We'll cal it the second time. The first time you were  
18 looking for Rudy, right?

19 A Yes.

20 Q So you didn't have any conversation with him about  
21 marijuana at all?

22 A Okay. Right.

23 Q Is that correct?

24 A Yes.

25 Q And the second time you saw him you saw him on Church

*McQuilkin - cross/ Dinnerstein*

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1 Avenue again; is that correct?

2 A Yes, sir.

3 Q And you asked him if you could buy some marijuana, right?

4 A Yes, sir.

5 Q And how much marijuana did you want to buy?

6 A I asked him was he selling dimes.

7 Q If he's selling what?

8 A Dimes.

9 Q A dime, like what you would buy in the past; is that  
10 correct?

11 A Yes.

12 Q What did he tell you?

13 A He said he only got quarters.

14 Q And quarters means a quarter of an ounce, right?

15 A Yes, sir.

16 Q And quarter costs \$25?

17 A Quarter can cost whatever you want to charge. I don't  
18 know. I don't know. His quarter cost \$40.

19 Q His quarter cost \$40?

20 A That's what he charged me.

21 Q So you paid \$40 for a quarter?

22 A I gave him \$40 and then another \$40 for two quarters.

23 Q So you bought two quarters and paid \$80?

24 A Yes, sir.

25 Q On October 16th you bought a half an ounce on of

*McQuilkin - cross/ Dinnerstein*

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1 marijuana, right?

2 A Yes.

3 Q And you paid \$80 for it, right?

4 A Yes.

5 Q Now, he didn't have any marijuana on him, so he had to go  
6 to his house; is that correct?

7 A He tell me he had to go to his house.

8 Q So you walked around the corner to his house; is that  
9 correct?

10 A Yes, sir.

11 Q Now, sir, all of those other times you bought marijuana  
12 were the people you bought marijuana from selling it right out  
13 of Church Avenue?

14 A Church Avenue, Raleigh and Church.

15 Q But did they have the marijuana on them when they sold  
16 it?

17 A Sometimes they do, sometimes they do, and sometimes they  
18 say what he said, hold, on, I'll be back, but by that time you  
19 ain't going here because that's years ago.

20 Q But sir, back in 2002, 2003 when you were buying  
21 marijuana didn't you just go to Church Avenue and somebody  
22 would sell you marijuana?

23 A Yeah, but sometimes in the same occurrence he's selling  
24 weed on the block or maybe he just finished running out. How  
25 I know?

*McQuilkin - cross/ Dinnerstein*

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1 Q You don't know anything about what he was doing before  
2 you got there; isn't that correct?

3 A Right.

4 Q You don't know, you have no idea, whether he was just  
5 going to the store, right?

6 A Right.

7 Q He could have just been going to the store and going home  
8 and he ran into you? You said can I have a half ounce of  
9 marijuana or a quarter of an ounce, you don't know, right?

10 A I don't know.

11 Q He just said -- you just said when you approached him he  
12 said he could sell you a quarter of an ounce, right?

13 A He told me he didn't have know dimes, he only got  
14 quarters. I said let me get a quarter. He walked around the  
15 corner.

16 Q And to get to the quarter of an ounce of marijuana he had  
17 to go back to his house; is that correct?

18 A Yes, sir.

19 Q Now, did you bring up at some point the subject of buying  
20 a half pound of marijuana?

21 A Yes, sir.

22 Q Was that on October 16th, was that the first time?

23 A Yes, sir.

24 Q Now, he said he can sell you a half pound for \$550,  
25 right?

*McQuilkin - cross/ Dinnerstein*

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1 A That what he said. You heard him on the tape.

2 Q Did you ever buy a half pound of marijuana from him?

3 A No.

4 Q Did you ever ask to buy a half pound of marijuana from  
5 him?

6 A Yes.

7 Q And what did he say?

8 A He said come to the block.

9 Q Did he ever sell you a half pound?

10 A No, sir.

11 Q When did he say to you that he had a half pound and you  
12 should come to the block?

13 A If I am not mistaken, on the same day when I ended up  
14 going in the car with him.

15 Q You mean September 4th?

16 A I don't know.

17 Q You don't know the date.

18 The most you ever bought from Mr. Praddy was two  
19 ounces of marijuana, right?

20 A Yes.

21 Q And two ounces cost about \$200, right?

22 A He was charging a hundred each.

23 Q Hundred an ounce?

24 A Yes, that's what he was charging.

25 Q So two ounces would be two hundred, right?

*McQuilkin - cross/ Dinnerstein*

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1 A Yes.

2 Q And how many times in a year from October to September,  
3 11 months, did you buy marijuana from Mr. Praddy.

4 A I think about seven times.

5 Q Sometimes you bought it just from Black?

6 A Yes.

7 Q So that was a couple of times from Black?

8 A Yes.

9 Q And so the seven would be seven minus two or three?

10 A I don't know how much -- how many times.

11 Q You don't know how many times?

12 A No, it is recorded, so it shouldn't be hard to find out.

13 Q Now, at some time you mentioned on March 7th you  
14 mentioned the word krills, what is a krill?

15 A Krill is another word for crack.

16 Q Did you ever buy -- did he ever hook you up with somebody  
17 who could sell krills?

18 A No.

19 Q Did you ever buy krills from --

20 A No.

21 Q Anthony or from Black?

22 A No.

23 MR. DINNERSTEIN: I am just going to play two other  
24 DVDs. I am not going to play most of them.

25 This will be Government Exhibit 415.

*McQuilkin - cross/ Dinnerstein*

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1 Q You remember purchasing marijuana on April 23rd of 2008?

2 (Tape played); (Tape stopped)

3 Is this Raleigh Place?

4 A Yes, sir.

5 Q Do you know who that gentleman is who is sitting on his  
6 stoop?

7 A Yes, sir.

8 Q Who is that?

9 A Kion's grandfather.

10 (Tape continues)

11 Q Now, that's Anthony; is that correct?

12 A That, yes, sir.

13 (Tape continued)

14 Q What did you just say to him -- to Anthony?

15 A He is handing me shit. Like, in other words, what he was  
16 meaning he is passing me two ounces of weed right in the open  
17 outside in the street.

18 (Continued on next page)

19

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McQuilkin - cross - Dinnerstein

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1 BY MR. DINNERSTEIN:

2 Q He was using bad judgment by passing you the weed right  
3 up there on the street, right?

4 A It was for his own good.

5 Q You were trying to help him to be more deceptive, right?

6 A Be more deceptive? I just told you.

7 Q You would do it in a sneakier way?

8 A Not a sneaky way. I go, Yo, why you doing it in the  
9 open?

10 (Tape plays-tape stops.)

11 Q Anthony is talking on the telephone; is that correct?

12 A Yeah.

13 Q Right?

14 A Yeah.

15 Q You don't know who he's talking to, right?

16 A No, sir.

17 (Tape plays-tape stops.)

18 Q Who is that person whose saying, Yo-Yo?

19 A Me.

20 Q What?

21 A Me.

22 Q This is -- who is the person in this -- who is on the  
23 camera now?

24 A Which one? Him?

25 Q The one who's arms are --

McQuilkin - cross - Dinnerstein

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1 A I think it's Torrel.

2 Q And that is Torrel Whyte?

3 A Torrel whatever.

4 Q Does he live on that block?

5 A I don't know where he live.

6 (Tape plays-tape stops.)

7 Q Who is talking now, is that you or this guy Torrel?

8 A I was just talking. I ain't looking at you, man.

9 Q That's you talking, right?

10 A Yes, sir.

11 (Tape plays-tape stops.)

12 Q Who is laughing now, is that you?

13 A That was me.

14 Q What?

15 A I just laughed.

16 Q Were you laughing?

17 A Yes.

18 (Tape plays-tape stops.)

19 Q There's some talk about a 20. Who is doing that?

20 A He's saying to me, borrow 20. Like he going to get \$20  
21 from me.

22 Q He wants to borrow money from you?

23 A It's typical street talk, not borrow. Basically, yo, let  
24 me get a 20, yo. If you got money, if you got money and you  
25 see somebody, it's typical to say, yo, let me hold something.

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1 I don't mean broke. And the next person like he got a lot of  
2 money in his hand, even though you got money in your pocket,  
3 you still say, yo, man, let me hold your 20. It ain't got  
4 nothing to do with he borrowing because he broke. That is  
5 just laughter. You see me laughing and joking.

6 (Tape plays-tape stops.)

7 Q You and this guy Torrel were having a conversation; is  
8 that right?

9 A Yes.

10 Q Isn't that what is going on, you and Torrel are talking?

11 A Yes, sir.

12 Q What is Anthony doing?

13 A He's over there on the phone. I don't know what he  
14 doing. He's right next to us.

15 Q Is he participating in the conversation?

16 A No.

17 (Tape plays-tape stops.)

18 Q Whose number are you trying to get there?

19 A Torrel.

20 Q He gave it to you?

21 A I was asking Birdman, that's Birdman who was telling, Yo,  
22 man, you don't remember your own number?

23 Q By the way, Birdman isn't vulgar during these  
24 conversations, is he, you are, right?

25 A Yeah.

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1 Q And Torrel is, right?

2 A Yes.

3 Q But Birdman -- I don't hear any vulgarity coming out of  
4 Anthony's mouth, do you?

5 A No, sir.

6 Q In September or another time -- this is Government  
7 Exhibit 418 -- there came a time that you were driven by  
8 Anthony to another location, isn't that correct?

9 A Yes, sir.

10 Q Off of Raleigh Place?

11 A Yes, sir.

12 MR. DINNERSTEIN: 417 and not 418.

13 (Pause.)

14 Q This time in September you were going to buy a couple of  
15 ounces of marijuana; is that correct?

16 A Yes, sir.

17 Q And he didn't have any, right?

18 A He didn't have it.

19 Q He didn't have it with him, right?

20 A He didn't have it, no. He say he have to go get it from  
21 somebody.

22 Q Now, is it a sensible thing to bring customers to the  
23 source of where you get the marijuana from?

24 A Is it a sensible thing? You got to ask the person that's  
25 taking you. It don't have anything to do with me if it's

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1 sensible or not sensible, I don't sell the marijuana.

2 Q Sir, if you were taken to the source of the marijuana,  
3 then you wouldn't need to deal with the middleman, you could  
4 go directly to the source; isn't that correct?

5 MR. DuCHARME: Objection.

6 A That's not correct.

7 THE COURT: Overruled. You may answer the question.

8 A It has nothing to do with me because I don't sell  
9 marijuana. I didn't make no rule or because you sell weed it  
10 would be easier if you go here --

11 THE COURT: You don't know anything about that?

12 THE WITNESS: I don't know.

13 THE COURT: That's his answer.

14 (Tape plays-tape stops.)

15 Q Who are you talking to there?

16 A I don't know.

17 Q You don't know?

18 A I don't know. At that time, right now I don't know. I  
19 know now.

20 Q Did you notice throughout the time that often you'd have  
21 to wait much longer to get your ounce or half an ounce or two  
22 ounces of marijuana than you would have expected to?

23 A Again, I'm not thinking about how much time it takes, if  
24 it's longer, if it was shorter.

25 Q Sir, isn't there some times that you kidded around in the

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1 laundromat about how long it took him to bring you that one  
2 ounce of marijuana?

3 A Yes, sir.

4 Q Why would you do that?

5 A Why would I do that?

6 Q Why did you say it was taking him so long?

7 A I don't know. I don't know why.

8 Q Sometimes you said, We'll meet at 5:45 on the block and  
9 he didn't come until a couple of hours later?

10 A Sometimes.

11 Q We're talking about five times, right, that you bought  
12 marijuana from him, right?

13 A Actually, like I said it's on the record. I don't recall  
14 it. You might know better than me.

15 Tape plays-tape stops.)

16 Q That's you, right?

17 A I don't know.

18 Q You don't know?

19 A No.

20 Q Who else is walking around with a wire on that day?

21 A I'm walking around with a wire.

22 Q So the person holding the cigarette is you or not, or you  
23 don't know?

24 A I don't know. It could be me.

25 Q This is what the block looks like, right, the nice houses

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1 across the street?

2 A They ain't all that nice.

3 Q They're not that nice?

4 A They look better in the picture than in-person.

5 Q What?

6 A It looks better in picture than in-person.

7 Q I see.

8 I'm going to advance this just a little bit. Who is  
9 that guy?

10 A That's Birdman and Torrel.

11 (Tape plays-tape stops.)

12 Q There you're talking to him, isn't that correct?

13 A Yes, sir.

14 Q You're talking to him?

15 A The Birdman. It's the picture.

16 Q "I'm not fuckin' with no third party," what does that  
17 mean?

18 A Middleman, somebody else.

19 Q You don't want to deal with anybody but Birdman, right?

20 A Yeah, that's what I mean.

21 (Tape plays-tape stops.)

22 Q I'm going to advance this slightly.

23 (Pause.)

24 (Tape plays-tape stops.)

25 Q You got into his car at that point, right?

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1 A Yes, sir.

2 Q Did he ask you to get into the car or you just got into  
3 it?

4 A I asked him previously could I go with him. I can't just  
5 jump in his car.

6 Q Before you said to him, Can I go with you to your source?

7 A Yeah.

8 Q Right?

9 A Yeah.

10 Q Did you find that to be an awkward question to ask?

11 A To ask?

12 Q Right. Did you find that to be an awkward question to  
13 ask?

14 A Can I get in the car? If you're going to spend money,  
15 what's so awkward about that?

16 (Tape plays-tape stops.)

17 Q Did he ask you to put on your seat belt?

18 A No. I put on my seat belt. It's the law.

19 Q He asked to you put on your seat belt, isn't that  
20 correct?

21 A I don't recall him asking me to put on my seat belt.  
22 That's natural, you get in a car you put the seat belt on.

23 Q You always wear a seat belt when you drive in a car?

24 A Yeah.

25 (Tape plays-tape stops.)

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1 Q He suggested to you that instead of calling the day you  
2 want the marijuana you should call the day before; is that  
3 correct?

4 A It sounded like it.

5 Q Pardon?

6 A It sounds like it.

7 Q When you were buying marijuana on a regular basis on  
8 Church Avenue, did you ever make orders before you bought the  
9 marijuana?

10 A No. I just come outside.

11 Q You would come outside and they were always there and  
12 there was somebody to buy marijuana from, right?

13 A Yes, sir.

14 Q He just told you, You should call me the day before if  
15 you want to buy some marijuana, right?

16 A Yeah.

17 THE COURT: It's 5 o'clock. I don't think you need  
18 to be rushed, but I think we can continue this tomorrow  
19 because there is probably going to be some redirect also.

20 MR. DuCHARME: I don't expect any. We would be in  
21 favor of finishing up tonight.

22 THE COURT: How much longer do you have?

23 MR. DINNERSTEIN: Ten minutes, 15 minutes.

24 THE COURT: Wait. I'll be right back and we'll  
25 continue. (Pause.) (Continued next page)

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1 EXAMINATION CONTINUES

2 BY MR. DINNERSTEIN:

3 THE COURT: Continue, please.

4 (Tape plays; tape stops.)

5 Q Sir, you were in the car for about 20 minutes, is that  
6 correct?

7 A I don't know.

8 Q You don't know?

9 A I don't know.

10 Q You had an opportunity to ask Mr. Praddy questions, is  
11 that correct?

12 A Yes, sir.

13 Q You asked him about where Bobby was, right?

14 A Yes, sir.

15 Q He said something like I don't know, right?

16 A He said a couple of things. He said I don't know and at  
17 one time I asked him again if he spoke to Bobby. He said  
18 yeah, he spoke to him one time.

19 Q Now, sir, the reason that you wanted to do that was so  
20 that you would have on the tape him talking about being  
21 involved with Bobby, isn't that correct?

22 A No. I asked him about Bobby because he know Bobby.

23 Q You were just making conversation, right?

24 A Just talking.

25 Q Could you have made conversation at that point about the

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1 murder that you say you saw in 2004?

2 A I saw the murder in 2004.

3 Q I didn't ask you that, sir.

4 Could you have said to him at that point, you know,  
5 Anthony, it was so cool the way you murdered somebody or  
6 something like back in 2004?

7 A Why would you ask a person about a murder?

8 Q To get an admission.

9 A To get an admission?

10 Q Yes.

11 A Wouldn't that look suspicious? Why would you ask me  
12 about a murder I committed out of nowhere?

13 Q Sir, if somebody commits a murder, doesn't that enhance  
14 their reputation in the neighborhood, in the community?

15 A He is a bad little motherfucker.

16 Q What?

17 A He's a bad boy.

18 Q So that's because he committed the murder, right?

19 A Not just because of that. Because of the whole crew.

20 Q Sir, sir, if you talk to him about a murder that you say  
21 he committed, wouldn't that have been something he could have  
22 used as a way of enhancing his reputation?

23 A You got to ask him that.

24 Q That could have been yes or no, sir.

25           Wouldn't that be something you would bring up to see

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1 if some kid would say yes, wasn't that cool the way I --

2 A No.

3 Q People wouldn't do that?

4 A I wouldn't.

5 (Tape plays; tape stops.)

6 Q This car ride goes for a while, right?

7 A I wasn't timing it.

8 Q You don't know?

9 (Tape plays; tape stops.)

10 Q At some point the person that Anthony is supposed to get  
11 the marijuana from calls him on the phone, right?

12 A Yes.

13 Q What?

14 A I think so, yes.

15 Q Then he speaks to him and says I'm really close, right?

16 A Yes, sir.

17 Q You make a joke, because he's always late, right?

18 A Yes.

19 MR. DINNERSTEIN: Now I will just play these last  
20 two minutes, Your Honor.

21 (Tape plays; tape stops.)

22 Q Is that a door slamming?

23 A Yes.

24 Q Did you hear the noise? Was that a door?

25 A Yes, sir.

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1 Q Was that Anthony's door?

2 A Yes, sir.

3 Q Okay. Then you decided you were going to get out of the  
4 car, right?

5 A Yes, sir.

6 Q That's so you could videotape -- that's so you could  
7 videotape the transaction between Anthony and this other  
8 person, is that correct?

9 A No.

10 Q Why did you get out of the car?

11 A I got out of the car.

12 Q What was the reason you got out of the car?

13 A You got to have a reason to step out of a car? If the  
14 person, passenger, driver, gets out, he going somewhere, I  
15 could get out the car to possibly go light a cigarette. I  
16 could have got out the car for anything.

17 Q Did you go out of the car to light a cigarette?

18 A I just went out of the car, no.

19 Q You went out of the car and you turned around and you saw  
20 Anthony purchase the marijuana from his source, isn't that  
21 correct?

22 A It's on the video.

23 Q I know it's on video. But isn't that the reason, sir,  
24 you got out of the car?

25 A No, it wasn't.

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1 Q What did you get out of the car for?

2 A Because I felt like getting out.

3 (Tape plays; tape stops.)

4 Q That's the person who was Anthony's source, is that  
5 correct?

6 A That's the person he went to get the weed from.

7 Q Okay. Would that be his source?

8 A If you want to use the word source, I guess so.

9 Q Is this on Raleigh Place?

10 A No.

11 Q This is some distance away from Raleigh Place; is that  
12 correct?

13 A Yes, sir.

14 Q So Anthony on this occasion, September 4, 2008, got his  
15 marijuana from somebody off of Raleigh Place, is that correct?

16 A Yes, sir.

17 Q He didn't get it from Kion, right?

18 A No, sir.

19 Q He didn't get it from Devon, right?

20 A No, sir.

21 Q He got it from some guy you don't even know, right?

22 A Yes, sir.

23 (Tape plays; tape stops.)

24 Q What did you -- he asked you why you got out of the car,  
25 isn't that correct?

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1 A And you heard what I said to him. I thought you were  
2 going upstairs, meaning I thought he was going in the  
3 building.

4 Q Is that true?

5 A That's what I told him.

6 Q I understand that you told him that.

7 Is that why you got out of the car?

8 A Basically, yeah.

9 Q What do you mean basically, sir?

10 A I got out the car. He asked me a question. I told him  
11 an answer.

12 Q I understand the answer you told him.

13 But isn't the reason you got out of the car because  
14 you wanted Anthony when he got the marijuana from his source  
15 for that to be on videotape?

16 A That's not true because if you see sometime so happened  
17 it came -- came like that. You see videos, sometimes I can't  
18 direct how the camera, like I pose the camera and say okay, I  
19 got it now.

20 Q Okay. Weren't you trying to get that on videotape?

21 A No.

22 Q No?

23 The reason you got out of the car was because you  
24 thought Anthony was going into a building, is that what you  
25 want us to believe?

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1 A You could believe what you want. That's what I told him.  
2 It's right there on the tape.

3 Q I know you told him that.

4 What is the truth?

5 Why did you get out of the car?

6 A I told you. What you want me to come -- to agree with  
7 you and lie?

8 THE COURT: He just wants --

9 Q I don't want you to lie.

10 THE COURT: You got out of the car for a reason.  
11 You can tell the jurors again, if you recall, what was the  
12 reason why you got out of the car. Simple question.

13 THE WITNESS: Basically, I really thought he was  
14 going upstairs.

15 THE COURT: That's the reason why, you thought he  
16 was going upstairs?

17 THE WITNESS: In the building.

18 THE COURT: Because you thought he was going  
19 upstairs?

20 THE WITNESS: Basically.

21 THE COURT: Did you want to tell him not to go  
22 upstairs, is that why you got out of the car?

23 THE WITNESS: No.

24 THE COURT: I think the jury has heard this.

25 Let's move on.

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1 MR. DINNERSTEIN: Okay.

2 (Tape plays; tape stops.)

3 Q You are now just driving back, right?

4 A Yes, sir.

5 Q Now, sir, you are hoping that you are going to get out  
6 from under this --

7 THE COURT: He said that ten times.

8 Next question.

9 Q You are trying to gain your freedom here, right, sir?

10 THE COURT: He said that ten times.

11 MR. DINNERSTEIN: You are right, Judge.

12 THE COURT: No. What happens late in the day --

13 MR. DINNERSTEIN: I have no further questions. How  
14 about that?

15 THE COURT: That's okay. I am not trying to push  
16 you here. We have been through this. It is repetitious. It  
17 is late.

18 Okay. Any questions, any redirect?

19 MR. DuCHARME: No redirect, Your Honor.

20 THE COURT: You may step down.

21 (Witness excused.)

22 THE COURT: Members of the jury, we will be back to  
23 a 10:00 o'clock time tomorrow. You got here at 10:30. It was  
24 a pretty full day. Obviously, you heard the testimony of  
25 important witnesses and tomorrow it may well be that the

1 government might conclude its direct case. I will talk to  
2 them after you leave today. But that's a real possibility.

3           Then the defendant will have an opportunity, if the  
4 defendant wishes to do so, to have testimony from witnesses  
5 that the defendant will call. There may be a few, from what I  
6 have spoken to the defendant attorney about. We will see how  
7 it goes.

8           It is a good chance that tomorrow we can be  
9 completed with the case but it will go over, in any event, to  
10 Wednesday. We will have summations. I am not putting any  
11 time constraints on the lawyers. I don't think it is  
12 appropriate in this case to do that. Then you will have to  
13 hear my charge, which will be about an hour or so, an hour and  
14 a half. So we have a lot of things to do. This is obviously  
15 the most important week so far.

16           Okay. Keep up the good work. Don't talk to  
17 anybody. Once again, we are getting close to the end. See  
18 you tomorrow at 10 o'clock promptly.

19           (The following occurred in the absence of the jury.)

20           THE COURT: All right. Let's see if I have  
21 accurately represented to the jury what we might anticipate  
22 tomorrow.

23           Mr. Goldsmith, what do you say?

24           MR. GOLDMSITH: Your Honor, I think there is a fair  
25 chance we will rest either before or shortly after lunch.

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1           THE COURT: Mr. Dinnerstein, you are well advised.  
2 You know what to expect. Be prepared to go forward with your  
3 case possibly tomorrow afternoon.

4           That will work out fine. I don't think I am going  
5 to require any summations tomorrow, I suspect. So you can  
6 plan on Wednesday for that. Okay.

7           MR. GOLDMITH: Thank you.

8           THE COURT: Anything else, Mr. Dinnerstein?

9           MR. DINNERSTEIN: No, Your Honor.

10          THE COURT: All right. See you folks tomorrow at  
11 10:00 o'clock.

12          MR. DuCHARME: Thank you, Your Honor.

13          (Recess taken until April 26, 2011, at 10:00 o'clock  
14 am.)

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